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Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part XXV. Certified Social Workers

Chapter 1. Standards of Practice

§101. Scope and Applicability

A. The standards of practice apply to all applicants, and those who are registered, certified or licensed. The use of the term social worker within these standards of practice includes all applicants, and those who are registered, certified or licensed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:295 (February 2000).

§103. Purpose

A. The Standards of Practice/Code of Conduct provide a basis upon which to assess and measure the professional conduct of an applicant and those who are registered, certified or licensed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:295 (February 2000).

§105. Violations

A. A violation of the Standards of Practice/Code of Conduct constitutes unprofessional or unethical conduct and constitutes grounds for disciplinary action or denial of credential.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:295 (February 2000).

§107. General Practice Parameters

A. Character. A social worker shall maintain good moral character.

B. Client Welfare. Within the context of the specific standards of practice prescribed herein, a social worker shall make reasonable efforts to advance the welfare and best interests of a client.

C. Self-Determination. Within the context of the specific standards of practice prescribed herein, a social worker shall respect a client's right to self-determination.

D. Nondiscrimination. A social worker shall not discriminate against a client, colleague, student, or supervisee on the basis of age, gender, sexual orientation, race, color, national origin, religion, disability, political

affiliation, or social or economic status. If the social worker is unable to offer services because of a concern about potential discrimination against a client, student, or supervisee, the social worker shall make an appropriate and timely referral. When a referral is not possible, the social worker shall obtain supervision or consultation to address the concern.

E. Professional Disclosure Statement. A social worker shall display at the social worker's primary place of practice or make available for all clients a statement that the client has the right to:

1. expect that the social worker has met the minimal qualifications of education, training, and experience required by state law;
2. examine public records maintained by the board which contain the social worker's qualifications and credentials;
3. be given a copy of the standards of practice upon request;
4. report a complaint about the social worker's practice to the board;
5. be informed of the range of fees for professional services before receiving the services;
6. privacy as allowed by law, and to be informed of the limits of confidentiality;
7. expect that the social worker will take reasonable measures consistent with the social worker's duty of confidentiality to limit access to client information and any expressed waivers or authorizations executed by the client. Reasonable measures include restricting access to client information to appropriate agency or office staff whose duties require such access;
8. receive information that a social worker is receiving supervision and that the social worker may be reviewing the client's case with the social worker's supervisor or consultant. Upon request, the social worker shall provide the name of the supervisor and the supervisor's contact information;
9. be free from being the object of discrimination while receiving social work services; and
10. have access to records as allowed by law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:295 (February 2000).

§109. Competence**A. Provision of Services**

1. Social workers should provide services and represent themselves as competent only within the boundaries of their education, training, credential, consultation received, supervised experience, or other relevant professional experience.

2. Social workers should provide services in substantive areas or use intervention techniques or approaches that are new to them only after engaging in appropriate study, training, consultation, and supervision from persons who are competent in those interventions or techniques.

3. When generally recognized standards do not exist with respect to an emerging area of practice, social workers should exercise careful judgment and take responsible steps (including appropriate education, research, training, consultation, and supervision) to ensure the competence of their work and to protect clients from harm.

B. Continued Competence. A social worker shall take all necessary and reasonable steps to maintain continued competence in the practice of social work.

C. Limits on Practice. A social worker shall limit practice to the permissible scope of practice for the social worker's credential.

D. Referrals. A social worker shall make a prompt referral to other professionals when the services required are beyond the social worker's competence. Such referrals are always based solely on the best interests of the client.

E. Delegation. A social worker shall not assign, oversee or supervise the performance of a task by another individual when the social worker knows that the other individual is not credentialed to perform the task or has not developed the competence to perform such a task.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:296 (February 2000).

§111. Practice Requirements

A. Assessment or Diagnosis. A social worker shall base services on an assessment or diagnosis. A social worker shall evaluate on an ongoing basis whether the assessment or diagnosis needs to be revised.

B. Assessment or Diagnostic Instruments. A social worker shall take reasonable steps to ensure that appropriate explanations of results are given. A social worker shall ensure that an explanation of the results is provided using language that is reasonably understandable to the person assessed or to another legally authorized person on behalf of the client.

C. Plan. A social worker shall develop a plan for services which includes goals based on the assessment or diagnosis. A social worker shall evaluate on an ongoing basis whether the plan needs to be revised.

D. Mandatory Reporting. All levels of social workers are required to report in conformity with all child or elder abuse Louisiana and federal laws.

E. Supervision or Consultation. A social worker shall obtain supervision or engage in consultation when necessary to serve the best interests of a client.

F. Informed Consent

1. Social workers shall provide services to clients only in the context of a professional relationship with valid informed consent. Social workers should use clear and understandable language to inform clients of the plan for services, relevant costs, reasonable alternatives, the client's right to refuse or withdraw consent, and the time frame covered by the consent. Social workers shall provide clients with an opportunity to ask questions.

2. If the client does not have the capacity to provide consent, the social worker shall obtain consent for the services from the client's legal guardian or other authorized representative.

3. If the client, the legal guardian, or other authorized representative does not consent, the social worker shall at the earliest opportunity discuss with the client that a referral to other resources may be in the client's best interests.

G. Records

1. A social worker shall make and maintain records, written or electronic, of services provided to a client. At a minimum, the records shall contain documentation of the assessment or diagnosis; documentation of a plan, documentation of any revision of the assessment or diagnosis or of the plan; any fees charged and other billing information; copies of all client authorization for release of information and any other legal forms pertaining to the client. These records shall be maintained by the social worker or agency employing the social worker at least for a period of six years after the last date of service, or for the time period required by federal or state law, if longer. In regards to a minor client, records must be kept six years after client reaches majority.

2. A social worker shall not represent by signature or any other means the extent of his/her participation in the provision of services (such as psychosocial evaluation, assessment, diagnosis, treatment plan, progress note or report) unless the social worker has formulated the psychosocial evaluation, assessment, diagnosis, treatment plan, progress note or report through direct contact with the client who provided the information included in the record.

3. A social worker shall not conspire or collude with another person or entity to misrepresent by signature or any other means the extent of his/her participation in the social worker's provision of services.

4. Social work students in field placement are specifically allowed to provide services under supervision. Social work supervisors may cosign all records indicating his/her supervisory function.

5. A social worker shall accurately complete and submit reports, assessments, evaluations, forms or similar documentation in a timely manner. This includes all forms requested by the Louisiana State Board of Social Work Examiners.

H. Termination of Services

1. A social worker shall terminate a professional relationship with a client when the client is not likely to benefit from continued services or the services are no longer needed.

2. A social worker has an affirmative duty to take reasonable steps to avoid under-treatment and/or precipitous termination of a client.

3. A social worker who anticipates the termination of services shall give reasonable notice to the client. A social worker shall take reasonable steps to inform the client of the termination of the professional relationship. A social worker shall provide referrals as needed and/or upon the request of the client. A social worker shall not terminate a professional relationship for the purpose of beginning a personal or business relationship with a client.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:296 (February 2000).

§113. Social Work Relationships

A. Exploitation. A social worker's duty requires the promotion and advancement of the best interests and welfare of clients, students and supervisees with whom the social worker has a professional social work relationship. It is a breach of this duty for a social worker to use the professional relationship to promote or advance the social worker's emotional, financial, sexual or personal needs. Examples of exploitative behavior may include, but are not limited to, the following:

1. inappropriately disclosing aspects of the social worker's life or personal problems;
2. seeking out or accepting advice or consultation from a client on financial, personal, real estate or other business matters;
3. hiring or bartering for services of a personal nature with the client, supervisee or student at the social worker's office, home or other location;
4. entering into a sale, lease, or joint venture or other business venture with a client, supervisee or student;
5. encouraging planned social meetings or contacts between the social worker and the client such as meals, parties, sporting and recreational events or similar functions; as distinguished from unplanned or unavoidable meetings at which both the social worker and the client are in attendance; and further distinguished from such activities where social workers are legitimately expected to participate in such events;

6. inappropriate touching, holding, kissing or physical contact between social worker and client, supervisee or student;

7. giving or exchanging inappropriate gifts, gratuitous services, or personal items between the social worker and the client, supervisee or student.

B. Dual Relationships. Social workers have an affirmative duty to maintain the best interest of clients and former clients as the predominant consideration during the existence of the social worker/client relationship and thereafter. While clients and former clients with whom the social worker has or had a clinical/therapeutic relationship are at greater risk, any relationship with a client or a former client exposes clients and former clients to a risk of exploitation. Social workers shall be aware, even in those instances where other relationships are not specifically prohibited, that the social worker by promoting, encouraging, or participating in any relationship with a client or former client runs a risk of exploitation.

1. Personal Relationships with Clinical/Therapeutic Clients. A social worker shall not engage in a personal relationship with a clinical/therapeutic client. When a social worker may not avoid a personal relationship with a clinical/therapeutic client, the social worker shall take necessary protective measures consistent with the best interests of the clinical/therapeutic client.

2. Personal Relationships with Former Clinical/Therapeutic Clients. A social worker may engage in a personal relationship, except as prohibited by §113.B.4, with a former clinical/therapeutic client, if the former clinical/therapeutic client was notified of the termination of the professional relationship. The social worker has a continuing duty to safeguard the best interests of the former clinical/therapeutic client.

3. Sexual Contact with a Client, Supervisee or Student. A social worker shall not engage in or request sexual contact as defined in §113.B.5, with a client, a client's spouse or former spouse, any member of the client's immediate family or with any person with whom the client has a sexual relationship. The prohibition of this Rule extends to supervisees and students during such times and under such circumstances where the social worker is in a supervisory or teaching relationship. This Rule also expressly prohibits social workers from engaging in any behavior which a reasonable person would find sexually stimulating, seductive or sexually demeaning when such behavior is either directed toward or exhibited in the presence of any person with whom sexual contact is otherwise prohibited by this Rule. Social workers shall not sexually harass a client, supervisee or student.

4. Sexual Contact with a Former Client. A social worker who has provided clinical/therapeutic social work services to a client shall not engage in or request sexual contacts as defined in §113.B.5, with the former client under any circumstances. A social worker who has provided other social work services to a client should not engage in or

request sexual contact as defined in §113.B.5, with the former client at any time if such contact exposes the former client to exploitation or harm.

5. **Sexual Contact Defined.** Sexual contact means sexual touching, sexual intercourse, either genital or anal, cunnilingus, fellatio, or the handling of the breasts, genital areas, buttocks, or thighs, whether clothed or unclothed, by either the social worker or the client.

6. **Business Relationship with a Client, Supervisee or Student.** A social worker shall not engage in any type of business relationship other than the provision of social work services, including social work supervision. Business relationships do not include purchases made by the social worker from the client, supervisee or student when they are providing necessary goods or services to the general public.

7. **Business Relationship with a Former Client.** The social worker has a continuing duty to safeguard the best interests of the former client.

8. **Prior Personal or Business Relationships.** A social worker should exercise caution before engaging in a professional relationship with an individual with whom the social worker had a previous personal or business relationship.

9. **Social Worker Responsibility.** A social worker shall be solely responsible for acting appropriately in regard to relationships with clients or former clients. A client or a former client's initiation of a personal, sexual, or business relationship shall not be a defense by the social worker for a violation of §113.B.1-8.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:297 (February 2000), amended LR 29:2381 (November 2003).

§115. Client Confidentiality

A. **Written Informed Consent.** A social worker shall protect all information provided by or obtained about a client. Client information includes the social worker's personal knowledge of the client and client records, written or electronic. Except as provided herein, client information may be disclosed or released only with the client's written informed consent. The written informed consent shall explain to whom the client's information will be disclosed or released and the purpose and time frame for the release of information.

B. **Release of Client Information without Written Consent.** A social worker may disclose client information without the client's written consent only under the following circumstances:

1. where required by federal or state law, including mandatory reporting laws, requiring release of client information;
2. where the treating social worker has made a clinical judgment that a client has communicated a significant threat

of physical violence against an identifiable victim(s), with the apparent intent and ability to carry out the threat. In such case, the social worker has a duty to warn which is discharged by reasonable efforts to communicate the threat to the potential victim(s) and to notify law enforcement authorities in the vicinity of the client and the victim(s). See R.S. 9:2800.2;

3. where one of the enumerated exceptions to the healthcare provider-patient privilege, as specified in Article 510 of the Louisiana Code of Evidence is applicable and the social worker is being required to give testimony at trial (hearing) or at a legally authorized deposition. See Article 510(E) of the Louisiana Code of Evidence;

4. where the social worker is the subject of a malpractice or professional negligence claim relating to a client or former client who is claiming damage or injury; the social worker may provide such information that is directly and specifically related to the factual issues pertaining to the social worker's alleged liability. However, in such a case, information concerning the client's current treatment or condition may only be disclosed pursuant to testimony at trial or legally authorized discovery methods. See Article 510(F) of the Louisiana Code of Evidence;

5. where the social worker is required to address allegations of a complaint brought by a client or former client which are the subject of adjudication or disciplinary hearing involving the social worker;

6. where the Louisiana State Board of Social Work Examiners issues a lawful subpoena to a social worker and the Board provides adequate safeguards to maintain confidentiality of client information or identify such as prescribed in R.S. 13:3715.1(J).

C. **Release of Client Records without Written Consent.** A social worker may release client records without the client's written consent under the following circumstances:

1. where a client's authorized representative consents in writing to the release;
2. where mandated by the federal or state law requiring release of records;
3. where circumstances described in §115.B and §115.B.4 apply and the social worker is lawfully issued and served with a subpoena duce tecum which complies with the formalities prescribed in R.S. 13:3715.1.
4. where the circumstances described in §115.B.5. and §115.B.6. apply and the social worker received a lawfully issued subpoena from the Louisiana State Board of Social Work Examiners.

D. **Limits of Confidentiality.** The social worker shall inform the client of the limits of confidentiality as provided under applicable law. Confidentiality limits shall include, but are not limited to, the following situations:

1. where circumstances giving rise to the list of exceptions to the healthcare provider-patient privilege listed in the Louisiana Code of Evidence Article 510;

2. where communications to the social worker reveal abuse or neglect of children and elders which impose an obligation on social workers as mandatory reporters under the Louisiana Children's Code Article 609, R.S. 14:403, and R.S. 14:403.2;

3. where communications to the social worker relate to abuse or neglect of residents of healthcare facilities which impose duty to report under R.S. 40:2009.20;

4. where the social worker has a duty to warn in relation to communications of threats of physical violence under R.S. 9:2800.2;

5. where the social worker has been appointed to conduct an evaluation for child custody or visitation by the court or where prior communications to the social worker relate to the health conditions of a client(s) who are parties to proceedings or custody or visitation of a child and the condition has substantial bearing on the fitness of the person claiming custody or visitation.

E. Confidentiality and Minor Clients. In addition to the general directive in §115.D., a social worker must inform a minor client, at the beginning of a professional relationship, of any laws which impose a limit on the right to privacy of a minor.

F. Third-Party Billing. A social worker shall provide client information to a third party for the purpose of payment for services rendered only with the client's written informed consent. The social worker shall inform the client of the nature of the client information to be disclosed or released to the third-party payor.

G. Continued Privacy of Information. A social worker shall continue to maintain confidentiality of client information upon termination of the professional relationship, including upon the death of the client, except as provided under applicable law.

H. Recording/Observation. A social worker shall obtain the client's written informed consent before the taping or recording of a session or a meeting with the client, or before a third-party is allowed to observe the session or meeting. The written informed consent shall explain to the client the purpose of the observing, taping or recording, how the taping or recording will be used, how it will be stored and when it will be destroyed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:298 (February 2000).

§117. Conduct

A. Impairment. A social worker shall not practice while impaired by medication, alcohol, drugs, or other chemicals. A social worker shall not practice under a mental or physical condition that impairs the ability to safely practice.

B. Medication and Mind or Mood Altering Substances. A social worker shall not dispense medication or controlled substances to a client, or accept these substances from a client for personal use or gain. In an appropriate setting, a

social worker may deliver a previously dispensed medication to the client for whom it was specifically prescribed or ordered by an authorized prescriber. A social worker may witness and verify the client's disposal of the client's medication. Under no circumstances shall a social worker offer alcoholic beverages or mood altering substances to a client.

C. Investigation. All social workers shall cooperate with a social work Board investigation of any social worker.

D. Responsibility to the Public. A social worker shall not knowingly participate in any activity or practice (including hiring, supervising, or concealing) by which activity or practice an individual engages or continues to engage in a practice of social work which is prohibited by R.S. 37:2709 or which activity or practice aids or abets any violation of R.S. 37:2720. A social worker who becomes aware of an activity or practice as described herein or of conduct prohibited by R.S. 37:2709 or R.S. 37:2720 shall report such information to the board at the earliest opportunity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:299 (February 2000), amended LR 29:2382 (November 2003).

§119. Representation to the Public

A. Use of Social Worker Designation. A social worker shall use only the social worker designation to which they are entitled. Such designation shall be used after the social worker's name and in all written communications relating to social work practice, including any advertising, correspondence, and client records.

B. Information to Clients or Potential Clients. A social worker shall provide accurate and factual information concerning the social worker's credentials, education, training, and experience upon request from a client, potential client or supervisee. A social worker shall not misrepresent directly or by implication the social worker's license, certificate, registration, degree, and/or professional qualifications in any oral or written communication or permit or continue to permit any misrepresentations by others. A social worker shall not misrepresent, directly or by implication, affiliations, purposes, and characteristics of institutions and organizations with which the social worker is associated.

C. Restriction on Social Work Designation. Social workers, regardless of the license, certificate, or registration, shall not use such designation as a claim, promise, or guarantee of successful service, nor imply that the holder has competence in another service. A social worker must not misrepresent his/her qualifications, training or experience. If a social worker engages in advertising, his/her credentials must be presented factually.

D. Display of Credentials. A social worker shall conspicuously display a current license, certificate, or registration issued by the board at the social worker's place of practice.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:299 (February 2000).

§121. Fees and Billing Practices

A. Fees and Payments. A social worker who provides a service for a fee shall inform a client of the fee at the initial session or meeting with the client. Payment arrangements must be made at the beginning of the professional relationship. If other services are necessary during the course of the professional relationship, the full fee for those services must be negotiated with the client, their legal guardian, or other authorized representative prior to the service being rendered. A social worker shall provide, upon request from a client, a client's legal guardian or other authorized representative, a written explanation of all charges for any services rendered.

B. Necessary Services. A social worker shall bill only for services which he/she has provided. A social worker shall provide only services which are necessary. If fees are to be charged for cancellation or failure to appear for an appointment, a clear description of that policy must be provided to the client in advance of its implementation.

C. Referrals

1. A social worker shall neither accept nor give a commission, rebate, fee split or other form of remuneration for the referral of a client.

2. A social worker shall not solicit a private fee or other remuneration for providing services to clients who are entitled to such available services through the social workers' employer or agency without employer or agency approval.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:299 (February 2000).

§123. Evaluation and Research

A. Protocol. When undertaking research activities, the social worker shall abide by accepted protocols for protection of human subjects.

B. Informed Consent. A social worker must obtain a client's or a client's legal guardian's written informed consent for the client to participate in a study or research project. The researcher should explain in writing the purpose of the study or research, as well as the activities to be undertaken by the client, should the client agree to participate in the study or research project. The social worker must inform the client of the client's right to withdraw from the project at any time.

C. Participant Protection and Confidentiality. The social work researcher should protect participants from unwarranted harm or damage as a result of the research, and should avoid conflict of interest or dual relationships with participants. The participant's confidentiality or anonymity should also be fully explained and protected.

D. Evaluation Reports. Social work researchers must report evaluation and research findings accurately and truthfully. Participants in research should be informed of the results of the research in which they have participated if they so desire.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:300 (February 2000).

Chapter 3. General Provisions

§301. Definitions

Board Approved Supervision Workshop This workshop shall be pre-approved by the board. At least 10 clock hours required for workshop to be acceptable and shall deal with the theory and techniques of supervision.

Client The individual, couple, family, group, organization, or community that seeks or receives social work services.

Clinical Social Work Practice The practice of clinical social work requires the application of specialized clinical knowledge and advanced clinical skills in the areas of prevention, assessment, diagnosis and treatment of mental, emotional, and behavioral and addiction disorders. Treatment methods include the provision of individual, marital, couple, family, and group psychotherapy. The practice of clinical social work may include, but is not limited to, private practice, employee assistance and addiction services.

Continuing Education Education and training, which are oriented to maintain, improve or enhance social work practice.

Continuing Education Contact Hour A 60-minute clock hour of instruction, not including breaks or meals.

Conviction Conviction of a crime by a court of competent jurisdiction and shall include a finding or verdict of guilt, whether or not the adjudication of guilt is withheld or not entered on admission of guilt, a no contest plea, a plea of nolo contendere, and a guilty plea.

Counseling A method used by social workers to assist individuals, couples, families, and groups in learning how to solve problems and make decisions about personal, health, social, educational, vocational, financial, and other interpersonal concerns.

Credential Can be the registration (RSW), certification (GSW) or license (LCSW) regulated by the Louisiana Social Work Practice Act.

Detrimental to the Client An act or omission of a professional responsibility that is damaging to the physical, mental, social or financial status of the client.

Examination A standardized test or examination of social work knowledge, skills, and abilities, which has been approved by the board.

Exploitation—An unequal power balance is inherent in the client/social worker relationship. This power imbalance is weighted toward the social worker. To use this power imbalance for the good of the social worker at the expense of the client is exploitation. Exploitation may take financial, business, emotional, sexual, verbal, religious and/or relational forms.

Felony—Criminal conduct punishable by imprisonment at hard labor or as otherwise defined as a felony by this state or any other state or by federal law.

Good Moral Character—The aggregate of qualities evidenced by past conduct, social relations, or life habits, which actually provide persons acquainted with the applicant a basis to form a common favorable opinion regarding the social worker's ethics and responsibility to duty.

Gross Negligence—In the practice of social work, means conduct by either act or omission involving a legal or professional duty about which the social worker displays conscious indifference and where the consequences of such conduct could adversely affect the rights or welfare of those persons to whom the social worker owes the duty.

Independent Practice—Practice of social work outside of an organized setting, such as a social, medical, or governmental agency, after completion of all applicable supervision requirements, in which the social worker assumes responsibility and accountability for services provided. LCSWs also engage in independent practice within an agency setting.

Private Practice—An activity characterized by contracting directly and receiving direct payment from clients or agencies to provide clinical services, educational services, consultation, research or supervision, as an autonomous practitioner solely responsible for the welfare of the client and for the services rendered.

Psychotherapy—The use of treatment methods utilizing a specialized, formal interaction between a social worker and an individual, couple, family, or group in which a therapeutic relationship is established, maintained and sustained to understand unconscious processes, intra-personal, interpersonal and psychosocial dynamics. Psychotherapy requires the application of diagnosis and treatment to mental, emotional, and behavioral disorders, conditions and addictions.

Social Work Employee—Such status requires that the social worker provide direct or indirect social work services, receive remuneration from an employer for these services, and that the social worker's employer deduct federal withholding tax, FICA or other retirement benefits from the salary or wages.

Supervisee—Any person under the supervision of a credentialed social worker. The supervisee may be an applicant for social work credentials, an employee under the supervision of the LCSW, GSW or RSW, or a person who contracts with the licensed social worker for supervision.

Supervision within an Agency—The professional relationship between a supervisor and a social worker that provides evaluation and direction over the services provided by the social worker and promotes continued development of the social worker's knowledge, skills, and abilities to provide social work services in an ethical and competent manner.

Supportive Counseling—The methods used by social workers to help individuals create and maintain adaptive patterns. Such methods may include building community resources and networks, linking clients with services and resources, educating clients and informing the public, helping clients identify and build strengths, leading client and community groups, and providing reassurance and support.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:300 (February 2000).

§303. Practice

A. Social Work Practice. Any person practicing social work without license, certification, provisional certification, or registration is subject to the provisions of R.S. 37:2720, including injunctive proceedings and prosecution.

B. Independent and Private Practice. Only a licensed clinical social worker may engage in the independent and private practice of social work.

C. Graduate Social Workers, Provisional Graduate Social Workers and Registered Social Workers shall not:

1. contract directly with individuals, couples, families, agencies or institutions for clinical services, consultation, supervision or educational services;
2. bill for services rendered;
3. receive direct payment for services;
4. claim to be licensed or in private practice.

D. Graduate Social Workers and Provisional Graduate Social Workers may:

1. practice clinical social work within an agency under the supervision of a licensed clinical social worker and shall meet the supervision requirements of Chapter 5, Minimum Supervision Requirements, §505.

E. Applicants for registration, certification, or licensure who indicate on their application that they have been employed for more than 120 days as a social worker in the state of Louisiana are subject to the provisions of R.S. 37:2720.

F. An applicant who meets all the requirements of R.S. 37:2706, 2707, or 2708 and who has worked more than 120 days as a social worker in the state of Louisiana and who has not otherwise violated any part of R.S. 37:2701-2723 or its Rules, shall be offered the following in the form of a consent order and agreement in order to process the application:

1. completion of five pre-approved continuing education hours in ethics to be completed within 90 days of issuance of the registration, certification or license, in addition to the 20 clock hours of continuing education required for the annual renewal of the registration, certification or license; and

2. passing score on an open book examination on the Louisiana Social Work Practice Act and the *Rules, Regulations and Procedures*, which include the Standards of Practice for Social workers within 90 days of the date the Consent Order and Agreement is signed;

3. the consent order and agreement shall not be considered disciplinary action and shall not be reported to the professional organizations or published in the board's newsletter.

G. In accordance with R.S. 37:2709, which states in part that the license, certificate, provisional certificate, or registration shall be kept conspicuously posted in the office or place of business at all times, it is permissible to post the original certificate of license, certification, provisional certification, or registration or a copy of the original certificate of license, certification, provisional certification or registration, or the current identification card received from the board upon renewal of the license, certification, provisional certification or registration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:301 (February 2000), amended LR 29:2382 (November 2003).

§305. Qualifications for Registration, Certification, Licensure

A. Registered Social Worker (RSW)

1. Must be of good moral character.

2. The applicant shall have his/her university submit official transcript indicating the receipt of a bachelor of social work, bachelor of arts, or bachelor of science degree from an undergraduate social work program, accredited by the Council on Social Work Education, or a master's degree of social work from a graduate social work program, accredited by the Council on Social Work Education.

B. Graduate Social Worker (GSW)

1. Must be of good moral character.

2. The applicant shall have his/her university submit official transcript indicating the receipt of a master's degree of social work from a graduate social work program, accredited by the Council on Social Work Education.

3. The applicant shall obtain a passing score on an examination approved by the board.

4. Grandfather Period: The board shall waive the examination requirement for applicants who submit a completed and notarized application and appropriate fee at any time within one calendar year from January 1, 2000.

C. Provisional Graduate Social Worker (Provisional GSW)

1. The board may issue provisional certification to an applicant who meets all requirements for the GSW certification except for passing the examination approved by the board.

2. The individual may hold the provisional certificate for up to three years from the date of issuance of the original certificate provided the individual takes the examination approved by board at least once each year.

3. It is the responsibility of the Provisional GSW to submit proof of examination to the board office once each year of eligibility.

4. The Provisional Graduate Social Worker who does not pass the credentialing examination for the GSW certification within three years from the date of issuance of the original certification may apply for the registered social work.

D. Licensed Clinical Social Worker (LCSW)

1. The applicant must be of good moral character.

2. The applicant shall have his/her university submit official transcript indicating the receipt of a master's degree of social work from a graduate social work program, accredited by the Council on Social Work Education.

3. The applicant shall submit documentation verifying at least 36 accumulated months of full-time post graduate social work practice on a form provided by the board.

4. The applicant shall submit documentation verifying at least 24 accumulated months of supervision post graduate social work experience in accordance with the board's supervision Rules and on the form provided by the board.

5. Supervised experience must be under the supervision of a Board-Approved Clinical Supervisor.

6. The applicant shall obtain a passing score on an examination approved by the board.

E. Board certified social workers who hold valid, current licenses on January 1, 2000, must submit an affidavit to the board on or before December 31, 2000, requesting that their status be changed to licensed clinical social worker. Board certified social workers who do not submit an affidavit by December 31, 2000, will be assigned the graduate social work status effective January 1, 2001, and shall be subject to the qualifications listed in R.S. 37:2708 to change their status after January 1, 2001.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:301 (February 2000), amended LR 29:2383 (November 2003).

§307. Administration of Examination

A. Examination

1. The social work examination shall be administered at least once per calendar year at a time and place designated by the board.

2. The Louisiana State Board of Social Work Examiners recognizes the examinations of the Association of Social Work Boards as the national examination for social workers.

3. Examination Pass Point. The board shall administer and grade a written examination or employ a national recognized testing firm to do the same. Whichever method is used, the board will consistently strive to improve reciprocity with other states having licensure comparable to Louisiana. A pass score of 70 will be used to grade the examination for the licensed clinical social worker and the graduate social worker.

B. Retake of Examination

1. Applicants must complete a Retake Application and submit the retake fee to the board office.

2. If more than 18 months have lapsed since the last examination an applicant for retake must submit an updated application for license.

3. Applicants for the LCSW license must submit an Employer Verification Affidavit for each place of employment after receipt of the MSW degree.

4. The board shall observe the retake policy of the testing service.

C. Examination Review Policy. The board may allow candidates to review failing examinations, at applicant's expense, in accordance with the Rules of the Association of Social Work Boards.

D. Preparatory Course

1. The board shall not endorse nor in any way participate in the operation or planning of any preparatory or cram course allegedly preparing applicants for the social work examination.

2. No former member of the Board of Examiners may take part in the development, sponsorship or administration of any preparatory or cram course offered to candidates for the social work examination for two years after said board member's term of office has expired.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:302 (February 2000), repromulgated LR 29:2383 (November 2003).

§309. Application Procedure

A. Application forms and instructions may be obtained by making a written, telephone or electronic request to the board office.

B. A new application must be submitted for any change in social work credentials.

C. Applications for license, certification or registration are reviewed and approved by the board at regularly scheduled board meetings.

D. Applications must be submitted to the board office at least seven days prior to the board's meeting to be eligible for consideration.

E. The board shall refuse to consider any application not complete in every detail, including submission of every document required by the application form. At the board's discretion a more detailed or complete response to any request for information set forth on the application form may be required.

F. The application fee for licensure, certification, provisional certification, or registration must be submitted in the form of a money order or certified check.

G. Applicants for the LCSW license must submit an employer verification affidavit for each place of employment in Louisiana after receipt of the MSW degree.

H. Applicants for the LCSW license must submit proof of 24 months of accumulated supervised experience on the forms provided by the board.

I. Non-resident applicants may submit proof of 24 months of accumulated supervised experience completed out-of-state on the forms provided by the board and given by a social worker licensed at a level equivalent to the LCSW license.

J. Non-resident applicants may submit verification of out-of-state accumulated social work employment to qualify for the LCSW license.

K. The application for licensure, certification, provisional certification and registration requests the applicant's social security number for identification purposes; however, submission is optional.

L. The official transcript from a university accredited by the Council on Social Work Education verifying receipt of a master's degree must be received directly from the university.

M. An applicant shall be deemed to have abandoned the application if the requirements for the credential are not completed within one year of the date on which the application was received. An application submitted subsequent to the abandoned application shall be treated as a new application.

N. Initial social work credentials issued during the last quarter of the fiscal year, (i.e., April, May or June) will not be required to renew for the next fiscal year.

O. Procedure for Social Workers with Felony Convictions

1. The burden of proof for submitting the requested documentation is the responsibility of the BSW or MSW applicants in order to convince the Louisiana State Board of Social Work Examiners that he/she has good moral character and fitness to practice social work.

2. The BSW or MSW applicant should collect and deliver the following documents to the board office promptly:

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a. copies of all court records containing information of the conviction and the imposition of sentence;

b. the current name, address, and telephone number of the judge who imposed sentence and who presided at the trial and/or accepted any plea upon which the felony conviction was based;

c. any documentation or records which reflect the term of any probationary period, the conditions of probation and the fulfillment and completion of all terms and conditions of probation;

d. the current name(s), addresses and telephone numbers of any probation officers or persons of similar title or job function to whom the applicant has reported or who has any information concerning the applicant's conduct during any probationary period;

e. if any form of restitution to a victim or victims was part of a sentence imposed or a condition of probation the applicant must provide the names, current addresses and telephone numbers of any such victim or victims and an affidavit of the applicant that affirms that all required restitution has been completed;

f. if the sentence included any form of imprisonment, residence at a half-way house, other forms of correctional and/or treatment facilities, the applicant must provide the complete address, names and current addresses of any persons having information relating to the satisfactory completion of any such prison term, residence or treatment, and any related documents. In the event that medical, psychiatric, psychological, substance or alcohol abuse evaluation, treatment and rehabilitation was in any way part of the sentence or a term or condition of probation, the applicant will execute any releases which may be required for the board to obtain information. Such information obtained will be maintained by the board on a confidential basis;

g. all records or documents relating to any arrest or conviction of any felony or misdemeanor which has occurred at any time since the applicant's original felony conviction or which occurs at any time during which the application is pending or being investigated (this requirement is an ongoing responsibility of the applicant);

h. any documents, records, or information which the applicant wishes to present in support of his or her application which shows or evidences rehabilitation, positive social contributions, awards, commendations, social or lifestyle adjustments, positive treatment outcomes, employment or academic evaluations, volunteer work or any other area in which the applicant participated which would reflect on the applicant's good moral character and fitness to practice social work. (The applicant should provide the names, current addresses and telephone numbers of any references or persons having information in support of the application. While information in support of an application which occurred prior to the conviction may be submitted, the board will place greater emphasis on supporting documentation and information concerning events which have occurred since the felony conviction);

i. true copies of any licenses, certificates to practice or similar documents issued by any board or licensing authority of any other state or the state of Louisiana obtained by the applicant since the date of the felony conviction. The applicant should provide a complete listing of any college, graduate school, trade or business school and employers to whom he or she has made application since the date of the felony conviction. This request includes any applications which were denied for any reason, including the felony conviction.

3. BSWs and MSWs should be aware of the following:

a. any delay in providing the requested information will delay the board's action on the application;

b. providing any false or misleading information, being evasive, concealing or making material omissions, or failing to cooperate shall form a basis for the denial of the application;

c. in the event that the application is denied by the board, the applicant may request a compliance hearing provided the application for such a hearing is made in writing within 30 days after the applicant receives the notice of the denial of the application. The request shall contain the applicant's receipt of the notice of the denial of the application, and the applicant's grounds for opposition to the denial of the application. The applicant is further aware that at such a hearing the applicant may be represented by legal counsel and the applicant bears the burden to establish that he or she meets the criteria for licensure;

d. the intent of the above enumerated items is to obtain the information upon which the board will evaluate the application.

P. Additional Requirements for International Applicants/Speakers of English as a Second Language

1. Any document required to be submitted to the board with an application for license, certification or registration shall be in the English language, or accompanied by a certified translation thereof into the English language.

2. As a condition of the board's consideration of the application of a graduate of a foreign college or university, the applicant shall provide the board with a statement from the Council on Social Work Education that the applicant's degree is equivalent to an accredited social work degree in the United States.

3. Applicants moving into the United States from out of the country may have 120 days to complete the application process to allow time to complete the additional requirements for foreign graduates/speakers of English as a second language.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:302 (February 2000), amended LR 29:2383 (November 2003).

§311. Renewals and Cancellation

A. Renewal notices are mailed on June 20 of each year. The renewal fee must be postmarked on or before November 30, to avoid late renewal fee.

B. Licensed Clinical Social Workers must list those Graduate Social Workers under their supervision for licensure requirements and agency setting on their renewal form.

C. Twenty clock hours of continuing education in programs approved by the board shall be obtained prior to June 30 of each year. See §317 for Rules on acceptable continuing education.

D. A lapsed license fee may be paid between December 1, and February 28, of each year and the license, certificate or registration will be renewed. (The lapsed fee equals twice the amount of the renewal fee.)

E. Without payment of the lapsed fee, the license, certification or registration is canceled after February 28, and a certified notice of cancellation is mailed. Payment must be postmarked on or before February 28.

F. It is the social worker's responsibility to keep the board informed of his/her current mailing address.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:304 (February 2000), amended LR 29:2384 (November 2003).

§313. Fees

A. The fees charged by the Louisiana State Board of Social Work Examiners shall be as follows.

Application Fee for LCSW	\$100
Application Fee for GSW	75
Application Fee for RSW	50
Application fee for Retake of LCSW	50
Application fee for Retake of GSW	50
Renewal Fee for LCSW	75
Renewal Fee for GSW	50
Renewal Fee for RSW	25
Late Renewal Fee for LCSW (postmarked after November 30)	150
Late Renewal Fee for GSW (postmarked after November 30)	100
Late Renewal Fee for RSW (postmarked after November 30)	50
Directory Fee	25
Registration Fee for Supervision for LCSW License	35
Fee for Returned Checks	25
Reissuance of Lost or Destroyed Certificate	25
Seal of Authenticity	5
Reissuance of Lost or Duplicate Identification Card	5
Fee for mailing lists per label plus postage and handling	\$0.05
Copy Fee for Documents:	\$0.25 per page plus postage and handling
Fee for Open Book Examination on Social Work Practice Act and Rules, Standards and Procedures	\$25 per administration
Fax Transmissions:	\$5 first page \$1 each additional page
Written Verification of License, Certificate or Registration:	\$5

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:304 (February 2000), amended LR 29:2384 (November 2003).

§315. Board Members**A. Board Member Appointments**

1. Whenever possible the board office shall notify all social workers of vacancies that occur on the board at least 45 days prior to the vacancy.

a. The notice to all social workers shall state the requirements for the vacant board position(s) and the date by which social workers or members of the public must submit a letter of interest and resume.

b. The notice to all social workers shall also include the names and addresses of all qualified social work membership organizations who meet the legal requirements to submit names for service on the board.

B. Officers. The board shall elect annually at the June board meeting, a chairman, vice-chairman, and secretary/treasurer whose responsibilities are included in the policy manual.

C. Meetings

1. The board shall schedule monthly meetings in December for the following calendar year.

2. A schedule of meeting dates shall be published in the board newsletter.

3. Any board member who misses three board meetings, barring extenuating circumstances approved by the board, during the course of one calendar year shall resign from the board.

4. Special travel requests, other than regularly monthly meetings, must be approved by the board at regular monthly meetings.

D. Expense Reimbursement

1. Expenses charged to the board must be consistent with the time frame and mission of board meetings and other function. Expenses which are exceptions to this policy may be paid with justification and approval by the board.

2. Board members shall be reimbursed for actual traveling, incidental, and clerical expenses incurred while engaged in official duties.

a. Mileage expenses shall be reimbursed at the official state rate.

b. Airfare expenses must be at the state contract rate or economy class rate when contract rates are not available.

c. Lodging and meals shall be reimbursed at actual cost if receipts are submitted. Without receipts, lodging and meals shall be reimbursed at the appropriate state rate.

d. Incidental expenses are defined as telephone calls, fees for storage and handling of equipment, tips for baggage handling, parking fees, ferry fees, and road and bridge tolls.

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3. Registration fees for conferences and room rental for a conference meeting are reimbursed at actual cost, but must be approved by the board at a regular monthly meeting.

4. Clerical expenses for individual board members shall be pre-approved by the board at a regular monthly board meeting.

E. Vacancies. The board shall notify all social workers and professional social work organizations of vacancies on the board, the qualifications required to serve, and the process for nominations by placing a notice in the board's newsletter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:304 (February 2000), amended LR 29:2385 (November 2003).

§317. Continuing Education Requirements

A. The purpose of continuing education is to protect the public by:

1. ensuring that the practitioner has formal opportunities to upgrade and update professional knowledge and skills; and

2. encouraging the practitioner to learn from other professionals; and

3. assisting the professional to expand his/her expanded professional resource network.

B. Consequently, approved learning situations emphasize opportunities for professional interaction and relationship-building.

C. Any credentialed social worker may be audited. It is important to keep good records of continuing education experiences for at least one year and to be able to explain the nature of the content covered.

D. Random audits are done to ensure that the continuing education mandate is applied fairly to all credentialed social workers.

E. For audit purposes, only certificates of attendance, sign-in sheets signed by a representative of the sponsoring organization, or an original letter from the sponsoring organization will be accepted as proof of attendance for continuing education events.

F. The collection period for continuing education hours is July 1, through June 30 of each fiscal year.

G. Continuing education hours are pro-rated as follows during the initial year of registration, certification or licensure.

Month Received	Hours Required
April, May, June	0
July, August, September	20
October, November, December	15
January, February, March	10

H. Continuing education hours collected in the month of June may be used for the current collection period or may be carried over to the next collection period.

I. In the case of extenuating circumstances, when the individual does not fulfill the continuing education requirements, the individual shall submit a written request for extension to the board for consideration.

J. Continuing Education Requirements for the Registered Social Worker

1. Twenty clock hours of continuing education in programs approved by the board shall be obtained prior to each renewal date including three clock hours in social work ethics once every two years.

K. Continuing Education Requirements for Graduate Social Worker

1. Twenty clock hours of continuing education in programs approved by the board shall be obtained prior to each renewal date, including three clock hours in social work ethics once every two years.

L. Continuing Education Requirements for Licensed Clinical Social Worker

1. Twenty clock hours of continuing education in programs approved by the board shall be obtained prior to each renewal date to include:

a. three clock hours in social work ethics once every two years;

b. ten clock hours in social work supervision, once every five years to maintain the board approved supervisor status; and

c. ten clock hours each year shall be clinical content including diagnosis and treatment.

2. For the collection period July 1, 1999 through June 30, 2000 only, LCSWs must collect 20 clock hours of continuing education in programs approved by the board to include:

a. three clock hours in social work ethics once every two years;

b. ten clock hours in social work supervision, once every five years to maintain the board approved clinical supervisor status; and

c. five clock hours of clinical content, including diagnosis and treatment.

M. The following learning forums are approved for continuing education and must contain content applicable to social work practice.

1. Educational offerings (workshops, conferences, courses, seminars, teleconferences, telecourses, and Internet courses) sponsored by professional organizations such as: Louisiana Council for Social Work Education, National Association of Social Workers, Clinical Social Work Federation, Council on Social Work Education, American

Medical Association, American Psychiatric Association, American Psychological Association, American Hospital Association and Association of Social Work Boards or other appropriate professional entities. Workshops with content applicable to social work practice which are offered by appropriate professional entities or individuals and approved by one of the approval organizations for continuing education credits are also acceptable.

a. Should the individual social worker make the determination that an education offering which is not pre-approved by one of the approval organizations has content applicable to social work practice, the social worker may complete and submit the *Guide for Assessment of Continuing Education* (§317.P) to the board for consideration.

2. Distance learning (teleconferences, telecourses, and Internet courses sponsored by entities listed in §317.L.1, or an accredited university) cannot exceed a total of 10 clock hours of the required 20 clock hours of continuing education required annually for renewal of social work credentials.

3. Continuing education activities or academic courses provided by accredited schools of social work. Academic course work counts per actual class hour.

4. Presentations of content applicable to social work practice at professional conferences, staff development meetings, and other appropriate forums in which you are the primary presenter. These presentations count 1 1/2 times the actual time of the presentation, in order to give credit for preparation time. (Example: You prepare a presentation on Holiday Stress that lasts one hour. You will receive 1 1/2 hours continuing education credit for this presentation.) Presentation and preparation time may only be counted once for each topic. Academic preparation and teaching of social work content (undergraduate or graduate) may be counted once in the same manner, unless the course has been revised to include substantially new content and text books. Please be prepared to provide the exact nature of the content and presentation.

5. Teleconferences which deal with content applicable to social work practice, are presented by a creditable and knowledgeable presenter, and are aimed at a professional audience.

6. Attendance at staff development presentations with content applicable to social work practice (such as staff meeting with a formal and in-depth presentation on working with clients who present borderline symptoms, etc.). Please be prepared to provide the dates and nature of the content covered. Case based staffing meetings are not included as appropriate continuing education experiences.

7. Attendance at professional social work meetings, Association of Social Work Boards (ASWB) item writing workshops, symposiums, panel discussions, or conferences sponsored by the professional associations suggested in §317.L.1. Please be prepared to provide the dates and nature of content or consultation covered.

8. Formal study groups of three or more participants. Must submit name, address, telephone number and credentials of group members to the board office. Study groups should maintain records of topics, attendance, meeting times, and presenters for audit purposes.

9. Contracted professional consultation which the credentialed social worker receives. Must provide the paid consultants name, address, telephone number, credentials, and the dates and focus of consultation.

10. Preparation of substantial written material with content applicable to social work practice which requires literature search, research, and explication of social work content (such as writing a social work article or book for publication, or a major grant application). Please provide specific information about the nature of the written work, the effort required, and the publisher or funding agency. These activities may be counted for no more than five hours continuing education.

11. Social workers should be doing consistent independent study. However, such study does not meet the goal of increasing professional relationships and networks. Consequently self-study programs are approved only for rural areas or if the licensee is physically incapacitated. All self-study programs must receive pre-approval from the board.

N. The intent of the continuing education requirement is to enhance competence, not to cause undue expense or burden to the credentialed social worker. The board encourages social workers to develop learning options which enhance their abilities to do their various social work roles. For instance:

1. a study group might have presentations from professionals who represent different community resources for clients, or might have formal book reviews and discussions of substantial social work books;

2. a staff development meeting might examine recent federal or state policies which affect social work services, or ways to increase cultural diversity and sensitivity among staff;

3. a social work faculty meeting might have a formal presentation on how to work with students who have diagnosed mental health conditions;

4. an administrator might contract for consultation on how to deal with staff who are drug or alcohol impaired.

O. The following learning situations will not be accepted:

1. banquet speeches;

2. non-social work content courses not directly related to enhancement of social work skills or performance as a social work employee. (Example: Computer, financial or business management courses designed to enhance the business of private practice);

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3. staff orientation, administrative staff meetings and case management meetings;

4. book reports or critiques of professional journal articles.

P. Guide for Assessment of Continuing Education. As continuing education events vary across the categories listed below, the appropriateness of considering them as acceptable continuing education also varies. An event must receive a total score (combination of all three sections) of 10 to be "clearly acceptable" for continuing education to renew your social work credential.

PROGRAM CONTENT

(Clearly Acceptable)

- ____6) Mainstream social work knowledge, skills and values
- ____6) Specialized social work knowledge, skills and values
- ____4) Information from related fields that is useful for social work practice
- ____2) Developing areas that may lack strong research, support or clear application
- ____0) Content that is specifically not acceptable or not related to social work practice

(Clearly Not Acceptable)

PROGRAM PRESENTER

(Clearly Acceptable)

- ____5) Social worker with appropriate expertise in content area
- ____4) Related professional with ability to connect content to social work practice
- ____2) Lay-person (e.g., client) on the impact of needing/receiving services
- ____0) Presenter with no apparent professional qualifications nor link to social work practice

(Clearly Not Acceptable)

PROGRAM AUDIENCE

(Clearly Acceptable)

- ____4) Social work practitioners/students
- ____4) Interdisciplinary professional audience that may include social workers
- ____3) Audience presumed to be primarily from another profession (e.g., nursing)
- ____1) Audience open to the general public
- ____0) Audience presumed to be primarily the general public

(Clearly Not Acceptable)

Total Score ____ (add score from each section to get Total Score)

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.(C) and (G) and 37:2714.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:305 (February 2000), amended LR 29:2385 (November 2003).

§319. Reciprocity and Endorsement

A. Reciprocity with other states and territories having comparable licensure, certification or registration is permissible as approved by the board.

B. In cases wherein no formal reciprocity agreement has been made, the board may endorse the license, certification or registration of a social worker moving to Louisiana from

a state or territory with equivalent license, certification or registration standards.

C. The written examination may be waived by the board and a Louisiana license or certification issued if the following specific requirements are met.

1. The applicant is currently licensed or certified to practice social work in another state with standards equivalent or greater to those of Louisiana.

2. The applicant presents evidence that s/he meets the qualifications of R.S. 37:2701-2723.

3. The applicant has passed the Advanced, Clinical, or Intermediate examination of the American Association of State Social Work Boards in order to secure current social work license or certification in the state of Louisiana.

4. The applicant submits the required fees.

5. The applicant submits the completed application for endorsement.

6. The Verification of License in Other State form is completed by the state in which the applicant has current licensure or certification and submitted to the Louisiana board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:306 (February 2000).

§321. Certificate Lettering

A. Only the individual's name will be placed on the certificate. No degrees, honors, or other information shall be added.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:307 (February 2000).

§323. Causes for Disciplinary Action

A. Disciplinary action, including denial, suspension, revocation and other disciplinary options available to the board are set out in R.S. 37:2717, these Rules, Standards, and Procedures and the Louisiana State Administrative Procedure Act.

B. The board will notify the professional community within 30 days of any disciplinary action including the discipline, the social worker's name, location, offense and sanction imposed. A notice of the disciplinary action also will be published in the Louisiana State Board of Social Work Examiners' Newsletter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:307 (February 2000).

Chapter 5. Minimum Supervision Requirements

§501. The GSW Who Pursues the LCSW Credential, or Who Provides Clinical Supervision Which Constitute Psychotherapy Must Be Supervised

A. A GSW must be a salaried employee of an agency, organization, or facility that delivers social work services. The individual is considered an employee if:

1. s/he provides direct or indirect social work services;
2. s/he receives remuneration from an employer for these services;
3. the employer withholds federal income taxes and FICA from the salary.

B. The GSW pursuing licensure must be employed at least 30 hours per week. Volunteer work is not counted toward meeting the employment criteria.

C. GSWs shall not:

1. contract directly with agencies nor with clients for clinical services, consultation, supervision, or educational services except as a salaried employee;
2. bill directly for services rendered; or
3. claim to be licensed or in private practice.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:307 (February 2000).

§503. GSWs Seeking the LCSW Credential

A. Supervision for the LCSW license can begin after the MSW obtains Graduate Social Work or Provisional Graduate Social Work certification.

B. GSWs seeking the LCSW credential must receive a minimum of 24 accumulated calendar months of supervised full-time postgraduate social work practice under the supervision of a Board Approved Clinical Supervisor (BACS).

C. MSW applicants who began their supervised experience on or before December 31, 1999 and filed a Contract for Supervision at the board office postmarked on or before December 31, 1999, shall be required to submit only 24 accumulated months of supervised post graduate social work experience in accordance with the board's supervision Rules and on the forms provided by the board to qualify for the LCSW examination and license.

D. A calendar month is counted from the first working day of the month to the last day of that month. GSWs may obtain a list of Board-Approved Clinical Supervisors (BACS) from the board office.

E. Face-to-face supervision for licensure must total at least 96 hours.

F. Supervision segments of no fewer than 30 minutes will be counted toward meeting the supervision requirement.

G. The requirement for supervision is at least four hours per calendar month with at least two different supervision contacts per month.

H. One-half (48 hours maximum) of the supervision requirement may be met through group supervision, occurring in increments of no more than two hours per group. No more than five supervisees may be involved in supervision groups.

I. The supervisee and supervisor must keep accurate records of both the dates of supervision times and the hours spent in supervision for potential audit of records. This information must be submitted to the board office on the supervision form entitled *Record of Supervision*.

J. Supervised work experience eligible to be counted towards licensure begins on the first working day of the first full calendar month after the first supervisory session.

K. School social workers may only count supervision that occurs during the full months in which they are employed in a social work position.

L. The original plan of supervision must be submitted to the board office within 60 days of the first supervision session. A plan of supervision shall be submitted on each supervision experience.

M. The individual completing supervision toward the LCSW supervised experience requirement must use the following forms to submit their supervision to the board office:

1. registration of supervision;
2. employer verification affidavit;
3. plan of supervision;
4. record of supervision;
5. evaluation of supervision;
6. termination of supervision;
7. professional experience verification affidavit.

N. Form must be legible. Preferably, material on forms should be typed, but if not typed, the forms must be printed neatly and legibly. Forms which are not legible will be returned.

O. Only original, unaltered supervision forms may be submitted to the board office. Copies, faxes, or forms with any alterations (such as white-out or mark-outs) will not be accepted.

P. To register her/his intent to initiate supervision, the GSW must submit the completed Registration of Supervision, with the registration fee of \$35.

Q. The plan for supervision will be reviewed and revisions may be required. Revisions shall be submitted to the board office within 30 days of receipt by the supervisee/supervisor.

R. The supervisee shall submit an employer verification affidavit form from each place of social work employment after she/he receives the MSW degree. The form shall be completed by the employer, not the supervisor (unless the employer and the supervisor are one and the same).

S. Termination and evaluation forms shall be submitted to the board office at the end of the supervisory period, and must clearly designate the beginning and ending dates of supervision.

T. Sometimes it is necessary for a supervisor to discontinue supervising a GSW for licensure. When this occurs, no matter what length of time the supervisor actually supervised the supervisee, the supervisor must submit an Evaluation and Termination form.

U. The professional experience verification affidavit shall be submitted to the board office at the end of the 36 accumulated months of work experience from each place of employment.

V. The supervisor has a professional responsibility to honor his/her commitment to supervise responsibly, which includes submitting forms on a timely basis. Should the supervisor fail to submit forms appropriately, legibly, and on a timely basis, the board reserves the right to withdraw the BACS designation from the supervisor.

W. When supervision is provided to a GSW by an LCSW-BACS supervisor, not an agency employee, social work ethics require that the LCSW-BACS take responsibility for securing agency agreement to the Plan of Supervision, whether the fee for supervision is paid by the agency or the supervisee.

1. The LCSW-BACS is responsible for clarifying with the agency administration, the supervisory role responsibilities and the content of supervision.

2. Under such a plan the supervisee's written evaluation is made available to the agency if the agency is paying for the supervision. If the supervisee is paying the fee, the evaluation is the supervisee's property.

X. If the GSW receives supervision outside of the state of Louisiana, that supervision will be accepted if:

1. the supervisor has completed the authorized forms of the Louisiana State Board of Social Work Examiners;

2. the supervisor was licensed at the time of supervision in the other state and submits the license verification of out-of-state supervisor form (available from board office);

3. the supervisor was certified by the Academy of Certified Social Workers (ACSW) at the time of supervision, which the supervisor must verify.

Y. A supervisory record shall include:

1. plan for supervision;
2. learning assessment of supervisee;

3. record of all supervisory sessions, and any canceled or missed appointments;

4. overview of cases discussed, as well as significant decisions made;

5. any ethical concerns;

6. significant problems arising in supervision, and how they were resolved;

7. memos and correspondence;

8. for all above data, dates completed and person completing the item.

Z. The board's publication, *Supervision for Professional Development and Public Protection: A Guide*, provides more information relative to supervision.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:307 (February 2000), amended LR 29:2387 (November 2003).

§505. The GSW Not Pursuing the LCSW Credential

A. The GSW who is not pursuing LCSW licensure, or who is fulfilling the experience requirement toward licensure, may deliver those clinical services which constitute psychotherapy only under the supervision of an LCSW. Supervision under these circumstances does not require that the supervising LCSW have the Board-Approved Clinical Supervisor (BACS) designation.

B. Regardless of the time spent in clinical practice, the GSW must be supervised in accordance with the following Rules.

C. The employing agency ultimately is responsible and accountable for services rendered by the GSW; therefore, the agency may provide access to LCSW supervision to ensure quality of services. The GSW may independently secure LCSW supervision.

D. On-site supervision by LCSWs is the preferred method of supervision.

E. Supervision may be rendered through individual supervision, group supervision, telephone contact or by secure electronic media to meet the needs of the agency and to provide timely services to clients in emergencies.

F. Supervision for GSWs rendering clinical services constituting psychotherapy shall total a minimum of two hours per month, counted in increments of no fewer than 30 minutes, for the duration of the time that the GSW is rendering psychotherapeutic services.

G. The supervisee and supervisor must keep accurate records of both the dates of supervision, times and hours spent in supervision for potential audit of records. The board at its discretion may ask for a copy of the record.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:307 (February 2000).

§507. Board-Approved Clinical Supervisor

A. To qualify for the Board-Approved Clinical Supervisor (BACS) designation, a social worker must:

1. hold the LCSW license;
2. verify at least three years of full-time social work experience at the LCSW level;
3. submit two letters of reference to the board from other professionals (one of whom should be an LCSW) who are familiar with the licensee's work, including supervision skills;
4. participate in a board orientation workshop;
5. participate in a board pre-approved workshop on the theory and techniques of supervision as well as procedures used in supervision toward licensure of at least 10 hours duration;
6. all requirements must be met before the social worker becomes a BACS.

B. To continue the BACS designation in good standing, the social worker must:

1. maintain LCSW licensure;
2. appropriately conduct all supervisory duties explicated in §503. Failure to comply with all regulations may result in the board lifting the BACS designation from the LCSW License;
3. participate in a board pre-approved workshop on the theory and techniques of supervision as well as procedures used toward licensure of at least 10 hours duration once every five years effective July 1, 1995. This means those BACS supervisors who achieved their BACS status before July 1, 1995 must attend another supervision workshop before June 30, 2000 and every five year period thereafter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:308 (February 2000), amended LR 29:2388 (November 2003).

Chapter 7. Impaired Professional Program Authority

§701. Authority

A. The Louisiana State Board of Social Work Examiners recognizes that impairments in the functioning of persons licensed, credentialed or registered to practice under the auspices of the Louisiana Social Work Practice Act can affect competent delivery of social work services and impair professional judgment.

B. Therefore, in order to safeguard the public health, safety, and welfare of the people of this state, as mandated by R.S. 37:2701, the Louisiana State Board of Social Work Examiners establishes the Social Work Impaired Professional Program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 29:2389 (November 2003).

§703. Purpose and Scope

A. The goal of the Social Work Impaired Professional Program is to provide for public protection through monitoring and a remediative course of action applicable to social workers who are functionally impaired in their ability to safely practice social work. Impairments include, but are not limited to mental, physical, and addictive disorders or other conditions. The program also supports recovery through preventive measures and allows entrance into the program before harm occurs.

B. A social worker who meets the requirements of R.S. 37:2706, 2707 or 2708 may enter the program subsequent to voluntary disclosure of impairment via an initial or renewal application for a credential. Entrance into the program may also occur by determination of the board, following involuntary disclosure of impairment in accordance with R.S. 37:2717(A)(2) or R.S. 37:2717(B)(4), or by other circumstances deemed appropriate by the board. Participation in the program may hence be required as a prerequisite to continued social work practice in accordance with the conditions of any consent order, compliance or adjudication hearing. A social worker who enters the program will be allowed to maintain his/her social work credentials while in compliance with the requirements of his/her program.

C. Professionals who participate in evaluation, monitoring or treatment and who are approved or designated by the board to render these services are afforded the immunity provisions of the Social Work Practice Act, R.S. 37:2723. The social worker will be responsible for executing all required releases of information and authorizations required for the board or its designees to obtain information, from any monitor, treatment or service provider concerning the social workers progress and participation in the program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 29:2389 (November 2003).

§705. Program Implementation

A. The board may utilize its discretionary authority to require or exclude specific components of this program for participants based upon determination of the nature and severity of the impairment. Participation in the Social Work Impaired Professional Program may consist of all or part of the following components.

PROFESSIONAL AND OCCUPATIONAL STANDARDS

1. The program participant may be required to submit to an assessment relative to the impairment.

a. This assessment will be completed by a licensed professional who is pre-approved by the board.

b. The format and content of this assessment will meet the requirements designated by the board, but will at a minimum contain information concerning:

i. previous inpatient/outpatient treatment episodes;

ii. relapse history;

iii. an assessment of the participant's psychosocial, physical and other needs relative to the impairment; and

iv. recommendations for future treatment.

c. The assessment will be forwarded to the board by the professional completing the assessment, and received by the board no later than 30 days following the board's determination of the participant's eligibility or requirement to participate in the program.

2. The participant may be required to submit to ongoing monitoring for a period of up to five years.

a. The beginning date of the monitoring period will be the date upon which a consent order is formally signed by the social worker and the board, or the date of the board's official decision to require program participation in the event of an adjudication hearing.

3. During the monitoring period the social worker may be required to submit to random bi-monthly drug and/or alcohol screenings as determined appropriate by the board, or other monitoring requirements which are pertinent and relative to the documented impairment.

a. The interval and timing of the required screening will be directed by a monitor who is pre-approved by the board. This monitor will be considered to have been duly selected by the board as its agent for the purposes of directing the required screens.

b. The results and reports of the results of all screens will be submitted to the board before the final business day of the month following the date of the screen.

4. Receipt by the board of any positive, unexplained substance abuse/drug screen or reports of non-compliance or complications relative to the impairment during the monitoring period may result in suspension, or other appropriate action pertaining to the social workers credential as determined appropriate by the board.

5. When the impairment is substance related, the social worker may be required to attend Twelve Step meetings on a regular basis as determined appropriate by the designated licensed substance abuse professional, and as approved or required by the board, but should be no less than four times monthly.

a. A pre-approved monthly log must be submitted to and received by the board before the final business day of the month following completion of the required meetings. It is the social worker's responsibility to ensure that these logs are properly completed and received by the board by the designated date.

b. The log requires documentation of the name of the sponsor, and meeting dates and times.

c. Submission of logs will be required for at least one year of program participation, but may be required for any period of time up to and including the entire term of monitoring as determined by the designated licensed substance abuse professional and as approved or required by the board.

6. During the monitoring period the social worker may be required to participate in professional supervision with a board approved and designated LCSW at a frequency determined by the board for a period of time up to and including the entire five year period of monitoring.

7. In the event that a social worker relocates to another jurisdiction, the social worker will within five days of relocating be required to either enroll in the other jurisdiction's impaired professional program and have the reports required under that agreement sent to the Louisiana State Board of Social Work Examiners, or if the other jurisdiction has no impaired professional program, the social worker will notify the licensing board of that jurisdiction that the social worker is impaired and enrolled in the Louisiana Social Work Impaired Professional Program. Should the social worker fail to adhere to this requirement, in addition to being deemed in violation of the program requirements and corresponding consent order or adjudication, the social worker's social work credential will be suspended.

8. The social worker shall notify the board office by telephone within 48 hours and in writing within five working days of any changes of the social worker's home or work address, telephone number, employment status, employer and/or change in scope or nature of practice. The social worker may satisfy the notice by telephone requirement by leaving a voice message at the board office at times when the office is closed.

9. Other requirements for participation in the program may include but are not limited to limitations of social work practice.

10. The board, in addition to other conditions, may require that the social worker obtain regularly scheduled therapy (at a prescribed interval).

a. The type and interval of therapy may be recommended by the designated pre-approved licensed professional responsible for program monitoring, as approved by the board.

b. The type and interval of therapy may be required by the board.

c. The social worker may choose the licensed substance abuse professional, or other qualified professional to provide this therapy, subject to board approval and designation.

11. Notification of a violation of the terms or conditions of this agreement, consent order or adjudication order may result in the immediate suspension of the individual's social work credential to practice in the state of Louisiana.

12. The social worker shall be responsible for all costs incurred in complying with the terms of this agreement, including but not limited to therapy, assessments, supervision, drug/alcohol screens and reproduction of treatment or other records.

13. The social worker must submit to the board an appropriately notarized statement indicating acceptance of the required conditions of participation in the Social Work Impaired Professional Program as mandated by the board, along with all initial (or updated) releases or authorizations for the board or its designees to obtain information concerning the social worker's participation and progress in the program. This statement and the required releases and authorizations must be submitted prior to the issuance of any initial credential or re-issuance of a renewal of a credential.

14. The board will, to the full extent permissible under R.S. 44:4(26), maintain an agreement or consent order relating to the social worker's participation in the Social Work Impaired Professional Program as a confidential matter. The board retains the discretion to share information it deems necessary with those persons providing evaluation/assessment, therapy, treatment, supervision, monitoring or drug/alcohol testing or reports. Violation of any terms, conditions or requirements contained in any consent order, or board decision can result in a loss of the confidential status.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 29:2389 (November 2003).

§707. Disposition of Investigation

A. The board may, before, during, or following an investigation, or after the filing of an administrative complaint, dispose of any complaint informally through correspondence or conference with the social worker and/or the complainant. This action may occur whether requested by the involved social worker or recommended by the CIO, or at any time as deemed appropriate by the board. Such informal resolution may take the form of any informal disposition recognized in R.S. 49:955(D) or any other form of agreement which adequately addresses the complaint or the matter under investigation. Such agreement is binding upon the involved social worker and the board. When an informal disposition occurs after an administrative complaint is filed with the board, the agreement requires the concurrence of the assistant attorney general handling the

case. This concurrence further requires a certification by the assistant attorney general that the social worker's conduct as specified in the informal disposition documents is consistent with the known evidence which could be presented at an adjudication hearing.

B. Any attempt by the board to resolve a complaint by informal disposition which does not result in a disposition of the complaint or matter under investigation, will in no way preclude further investigation of that matter or complaint. The participation in any such attempt by the board or any of its members will in no way disqualify the board or any of its members from serving on an adjudication hearing panel dealing with an administrative complaint on the same subject matter as the attempted informal resolution. The board and the hearing panel is authorized to obtain waivers related to their participation in informal disposition procedures signed by the involved social worker and the social worker's legal counsel, if any, prior to its participation in such informal procedures.

C. At the conclusion of the investigation, the board's administrator will receive a written report from the CIO and/or the board's administrative staff. The written report shall provide a summary of the complaint or basis for the investigation, a general statement of the evidence relating to the investigation and the investigator's determination and recommendation. If the report contains a recommendation that the complaint be dismissed due to a lack of evidence, inadequate legal cause for the filing of an administrative complaint, or for any other reason, the administrator promptly shall notify the board chairperson who will, on a rotating basis, designate a board member to review the complaint, the complete investigative materials of the CIO or the board's administrative staff, and any investigative reports and recommendations. This review shall include an assessment of the quality and thoroughness of the investigation and the legal and/or factual basis for the recommended dismissal. The reviewing board member shall promptly report to the board his or her assessment of the investigation and the basis for the recommended dismissal. Unless the complaint is the subject of an informal disposition as specified in §707.A, no complaint may be dismissed without board member review of the investigation and a vote of the board on the recommendation of the investigator's report. The board may accept the recommendation of the report and dismiss the complaint or may refer the matter back to the board's administrator for further investigation as it deems necessary. In the event the board votes to dismiss the complaint, both the involved social worker and the complainant will be notified in writing concerning the board's action. Notwithstanding this Section, no board member will be disqualified from serving on a hearing panel on a complaint merely because the board member was designated to review the complaint or participated in a vote related to the recommendation of the dismissal of any complaint.

D. If the investigation report contains a determination that there is probable cause to believe that the involved social worker has engaged or is engaging in conduct, acts, or

omissions constituting legal cause under the law, these Rules and regulations, or ethical standards for any form of disciplinary action as specified in R.S. 37:2717, then the administrator shall promptly notify the attorney general or the assistant attorney general assigned to prosecute such matters on behalf of the state pursuant to R.S. 37:2717(C). The notice shall deliver to the assistant attorney general all investigative reports, statements, notes, recordings, court records, and other data obtained in the course of the investigation. It will also request the preparation of a draft of an administrative complaint regarding any violations which are disclosed in or suggested by the investigation. The assistant attorney general prosecuting the matter may request and obtain other information from the board's administrator, including access to consultants to assess the results of the investigation and prepare a draft of the administrative complaint. The draft of the administrative complaint shall identify the involved social worker and be prepared in the same form and content as the administrative complaint specified in §709.B of these Rules. The draft of the administrative complaint shall be signed by the assistant attorney general and delivered to the board's administrator within 30 days of the notice and delivery to the assistant attorney general of the investigation, report and specified materials. The board's administrator is authorized to extend the time for the submission of the draft of the administrative complaint for a reasonable time as requested by the assistant attorney general, provided that such extensions do not foreclose action on the complaint or the scheduling of a hearing due to the limitations contained in R.S. 37:21.

E. Upon receiving a signed draft of the administrative complaint, the administrator shall mail a copy of the draft complaint together with a notice letter to the involved social worker. The letter will advise of the intent to file the administrative complaint and give the social worker a reasonable opportunity pursuant to R.S. 49:961(C) to show compliance with all legal requirements of the social worker's license, or to show that the complaint is unfounded.

F. Should the involved social worker fail to respond within the time provided (which time may be extended by the administrator upon good cause shown), or if the social worker's response does not satisfactorily demonstrate that the social worker is in lawful compliance or that the complaint is unfounded; the administrator shall in consultation with the assistant attorney general prepare an original complaint in the form of the draft complaint for filing with the board. In determining the adequacy of any response submitted by the social worker, the administrator should consult with the assistant attorney general. The administrator may also consult with its general legal counsel (also referred to in these procedural Rules as independent counsel) on any legal issues relating to the response submitted by the social worker.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:309 (February 2000).

§709. Administrative Complaint Procedure

A. An original of the administrative complaint shall be signed and approved by the assistant attorney general and delivered to the board's administrator prior to being filed with the board. The board's administrator shall place the administrative complaint on the board agenda for the next scheduled meeting of the board. When the board receives the administrative complaint, the board will docket the complaint under its designated numbering system and schedule a hearing.

B. The administrative complaint shall identify the involved social worker and any license, provisional license, certificate or registration number. In separately numbered paragraphs, the complaint shall concisely state the material facts and the matters alleged to be proven, including the facts giving rise to the board's jurisdiction over the respondent social worker, the facts constituting legal cause for the complaint against the respondent under law (including the specification of the Practice Act, the Administrative Procedure Act, the Board's Rules, Standards, and Procedures, or any other statutory law alleged to have been violated by the respondent social worker). The complaint shall request an administrative sanction or relief which the assistant attorney general seeks in the name of the state of Louisiana. It shall bear the name, address and telephone number of the assistant attorney general.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:310 (February 2000).

§711. Notice of Administrative Complaint and Hearing Scheduling

A. Upon the docketing of the administrative complaint, the board should schedule the complaint for a hearing before a hearing panel of the board. This hearing shall take place not less than 30 days nor more than 150 days of the docketing of the complaint, provided that the time for the hearing may be lengthened as the board deems necessary or appropriate, or upon good cause shown by motion of the attorney general or respondent. Any requests for extension of time to schedule the hearing beyond 150 days after docketing shall be considered the filing of a procedural motion under R.S. 37:21(A)(5).

B. If the board finds that public health, safety, or welfare imperatively requires emergency action and incorporates a finding to that effect in its order, the board may enter an order of summary suspension of the respondent social worker's license pending proceedings for revocation or other action in accordance with R.S. 49:961(C). In that event, the scheduled hearing on the summary suspension shall be noticed and scheduled not more than 45 days after the order of such summary suspension. Scheduling may extend beyond the 45 day period if requested by the involved social worker.

C. The respondent social worker will be served written notice of the administrative complaint; the time, date, and place of the scheduled hearing; and a copy of the Board's

Rules, Standards, and Procedures by registered, return-receipt-requested mail, as well as by regular first class mail. The notice will be sent to the most current address for the respondent social worker as reflected in the official records of the board. The notice shall include a statement of the legal authority and jurisdiction under which the hearing is to be held and shall be accompanied by a certified copy of the administrative complaint. If the hearing panel of the board has been designated at the time of the notice, the notice shall contain the names of the panel members.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:310 (February 2000).

§713. Response to Complaint, Notice of Representation

A. Within 15 days of service of the complaint (or such longer time as the board may permit, on motion of the respondent social worker, hereafter called respondent), the respondent may answer the complaint, admitting or denying each of the separate allegations of fact or law. The respondent may offer any explanation or assert whatever defense(s) are applicable. Any matters admitted by respondent shall be deemed proven and established for purposes of adjudication. In the event that respondent does not file a response to the complaint, all matters asserted in the complaint shall be deemed denied.

B. In any adjudication proceeding before the board, respondent may be represented by an attorney at law duly admitted to practice in this state. Respondent who is represented by legal counsel shall personally or through such counsel give written notice to the board of the name, address and telephone number of the attorney. Following the board's receipt of proper notice of representation, all further notices, complaints, subpoenas, orders, or other process related to the proceedings shall be served on respondent through his or her designated counsel of record.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:311 (February 2000).

§715. Pleadings; Motions and Service

A. All pleadings, motions, and other papers permitted or required to be filed with the board in a pending adjudication shall be filed by personal delivery at or by mail to the board office. Concurrent service by mail or personal delivery shall be filed with the assistant attorney general, if filed by or on behalf of the respondent, or upon respondent or respondent's counsel of record (if any), if filed by the assistant attorney general.

B. All pleadings, motions, discovery, or other papers shall be submitted on plain white letter-size (8 1/2" x 11") bond, with margins of at least one inch on all sides. The text shall be double-spaced, except for quotations and other matter customarily single-spaced. Submitted materials shall

bear the caption and docket number of the case as it appears on the complaint, and shall include a certificate of the attorney or person making the filing that service of a copy of the materials has been effected in the same manner by regular mail or by personal delivery.

C. The board may refuse to accept for filing any pleading, motion or other paper not conforming to the requirements of this section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:311 (February 2000).

§717. Pre-Hearing Motions

A. Pre-hearing motions, including a motion to dismiss, shall be filed not less than 30 days following the service of the complaint on the respondent or 15 days prior to the hearing, whichever is earlier. Each pre-hearing motion shall be accompanied by a memorandum which sets forth a concise statement of the grounds upon which the relief sought is based and the legal authority therefor. A motion may be accompanied by an affidavit(s) as necessary to present or support factual content of the motion. Within 10 days of the filing of any such motion and memorandum or such shorter time as the board may order, the party opposing the motion (whether the opposing party is the assistant attorney general or the respondent or respondent's counsel), may file a memorandum which may be supported by affidavit(s) in opposition to or setting forth the opposing party's position on the motion.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:311 (February 2000).

§719. Motions for Continuance of Hearing

A. A motion for continuance of hearing shall be filed within the delay prescribed by §713 of these Rules, provided that the board may accept the filing of a motion for a continuance at any time prior to hearing upon a showing of good cause not discoverable within the time otherwise provided for the filing of pre-hearing motions.

B. A scheduled hearing may be continued by the board only upon a showing by respondent or the assistant attorney general that there are substantial legitimate grounds that the hearing should be continued. These grounds must balance the respondent's right to a reasonable opportunity to prepare and present a defense, with the complaint and the board's responsibility to protect the public health, welfare, and safety. Except in extraordinary circumstances evidenced by verified motion or accompanying affidavit, the board ordinarily will not grant a motion to continue a hearing that has been previously continued upon motion of the same party. The board may, but is not required to continue a scheduled hearing, where both respondent and/or respondent's legal counsel and the assistant attorney general jointly request continuance.

C. If an initial motion for continuance is not opposed, it may be granted by the board's administrator.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:311 (February 2000).

§721. Disposition of Pre-Hearing Motions

A. Any pre-hearing motion, other than an unopposed initial motion for continuance of hearing which may be granted by the administrator, shall be referred for decision to the presiding officer of the hearing panel designated for that proceeding. The presiding officer may make a ruling or, at his or her discretion, may refer any pre-hearing motion to the entire panel for disposition. Any party aggrieved by the decision of the presiding officer on a pre-hearing motion may request that the motion be reconsidered by the entire panel.

B. The presiding officer or the hearing panel shall ordinarily rule on pre-hearing motions on the papers filed, without a hearing. On written request by the respondent or the assistant attorney general, however, and on grounds satisfactory to the presiding officer of the hearing panel, the presiding officer may grant opportunity for hearing, by oral argument, on any pre-hearing motion.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:311 (February 2000).

§723. Rules of Evidence; Official Notice; Oaths and Affirmations; Subpoenas; Depositions and Discovery; Confidential Privileged Information; and Executive Session

A. Rules relating to evidence, notice, authority to administer oaths, issue subpoenas, conduct depositions and discovery, and the control of confidential and privileged information will be applied in adjudication proceedings before the board as specified in R.S. 49:956, or as may be modified by R.S. 13:3715.1(J) and R.S. 44:4(25).

B. To the extent applicable, the testimonial privileges set out in the Social Work Practice Act, R.S. 37:2718 and the Louisiana Code of Evidence will apply to the hearings before the board. By bringing a complaint against his or her social worker, the client waives the privilege of confidentiality for the purposes of the hearing.

C. The hearing panel and its designated presiding officer shall take reasonable steps to protect patient/client identity on any medical/psychotherapy records or similar records as required by R.S. 13:3715.1(J), and to the extent that any information presented at a hearing involves peer review material within the meaning of R.S. 13:3715.3. If protection of peer review material is required, the board is authorized to conduct that portion of the hearing in executive session to preserve the confidentiality of peer review privilege materials, including information, data, reports, and records

in compliance with R.S. 13:3715.3(G). The board may also go into executive session for the limited purpose of discussing the character, professional competence, or physical or mental health of a license, pursuant to R.S. 42:6 and 6.1 and Opinion Attorney General No. 94-561, Dec. 8, 1994.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:312 (February 2000).

§725. Designation of Hearing Panel, Disqualification and Replacement

A. At the time the administrative complaint is docketed with the board or within 30 days thereafter, the board chairperson will designate five members of the board (one of whom may, but is not required to be, the board chairperson) to serve as the hearing panel for that complaint. The selected board panel members shall elect from the membership a person to serve as presiding officer. The presiding officer at the hearing may make rulings on objections and the admissibility of evidence, and will insure that the conduct of the hearing proceeds without delay and pursuant to law. The other panel members may not delegate any of their decision-making or fact-finding duties to the presiding officer, nor shall the presiding officer have any greater weight in the decision-making process.

B. In the event that a board member is disqualified or recused from a complaint or hearing the board should immediately contact the governor to appoint a board member pro tem to replace the disqualified member for the complaint or hearing in progress only.

C. Any panel member having reason to believe that he or she is biased or prejudiced either for or against one of the parties to the proceeding, or who has a personal interest in the outcome, shall immediately notify the remaining board members and request to be disqualified. Likewise, any party to such a hearing or a compliance hearing as provided in §743, may file with the board a motion supported by an affidavit requesting disqualification because of bias, prejudice or personal interest. Motion for disqualification shall be filed with the board and the opposing party within 15 days following the notice of the composition of the hearing panel. Absent good cause shown, motions for disqualification filed more than 15 days following such notice will not be considered. As soon as possible, but not later than 10 calendar days preceding the beginning of the hearing, the majority of the hearing panel will consider the merits of the disqualification request and any opposition to that request filed by the opposing party. The concerned board member shall not participate in the action to disqualify and shall not vote on that issue. If the board hearing panel determines there is no merit to the request for disqualification, the board will proceed with the hearing before the designated panel. However, any doubt as to the merits of the request for disqualification should be resolved in favor of disqualification, and the board chairperson shall immediately appoint one of the remaining board members as the replacement to the hearing panel.

D. Ordinarily, the composition of a hearing panel is five members of the board. However, in the event that the respondent social worker and the assistant attorney general agree to a hearing panel of three board members, the chairperson may designate three of the five designated panel members to serve as the hearing panel. Any stipulation regarding a three-board-member hearing panel must be in writing and signed by the respondent and/or respondent's attorney and the attorney general. Such stipulation further provides that the three member hearing panel may completely adjudicate all issues specified in the complaint, render findings of fact, conclusions of law, decision and sanction, and that no appeal of any decision or sanction will be based on a challenge to the board's jurisdiction to adjudicate the matter with a three member hearing panel. Any such stipulation to a three-member hearing panel shall be delivered to the board at least 15 days prior to the scheduled hearing. The written stipulation shall be filed in the adjudication record and shall constitute a waiver of the application of and the need to comply with R.S. 49:957.

E. At least one member of the hearing panel including the panel members of a compliance hearing specified under §743 shall have the same social work credential as the respondent.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:312 (February 2000).

§727. Board's Independent Legal Counsel

A. The board may designate its general counsel to serve as independent counsel relating to complaints and adjudication and compliance hearings.

B. The board's independent counsel may provide the board, any hearing panel member, or the board's administrator with advice on the issues of legal sufficiency, notice, procedural and substantive due process of law (constitutional, statutory and rules), interpretations relating to any complaint, or the investigation or adjudication thereof. Such independent counsel may not participate in the investigation or prosecution of any case pending before the board or board hearing panel.

C. The board's independent counsel may also provide other services relative to the complaint or adjudication which the board or the hearing panel deems necessary, except as may be expressly limited by these Rules, standards, and procedures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:313 (February 2000).

§729. Pre-Hearing Conference

A. In any case of adjudication noticed and docketed for a hearing before the board, the respondent and/or respondent's legal counsel and the assistant attorney general may agree, or the board chairperson or the presiding officer of the

hearing panel may require, that a pre-hearing conference be held among such counsel or together with the board's independent legal counsel. This conference will be held for the purpose of simplifying the issues for the hearing, and promoting stipulations as to facts and proposed evidentiary offerings which will not be disputed at the hearing.

B. If the parties and/or their legal counsel reside in different cities within the state, or if for other reasons it is inconvenient for parties to appear in person at a pre-hearing conference, the conference may be conducted by telephone.

C. Following the pre-hearing conference, the parties shall (and without such conference the parties may) agree in writing on a pre-hearing order which should include:

1. a brief statement by the assistant attorney general about what such counsel expects the evidence presented against the respondent to show;

2. a brief statement by respondent as to what the evidence and arguments in defense are expected to show;

3. a list of witnesses to be called by the assistant attorney general and/or respondent, together with a brief general statement of the nature of the testimony each witness is expected to give;

4. any stipulations which the parties may be able to agree upon concerning undisputed claims, facts, testimony, documents or issues; and

5. an estimate of the time required for the hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:313 (February 2000).

§731. Consolidation of Cases

A. The board shall have the discretion to consolidate one or more cases for hearing when they involve the same or related parties, or substantially the same questions of law or of fact. The board may also grant separate hearings if a joint hearing would be prejudicial to one or more of the parties. If hearings are to be consolidated, notice must be given to all parties in advance of the hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:313 (February 2000).

§733. Conduct of Hearing; Record

A. Adjudication hearings are generally conducted in open session, except where closed or executive session is specifically authorized by law, as identified in these Rules.

B. At the adjudication hearing, the assistant attorney general and the respondent and respondent's counsel shall be afforded the opportunity to present evidence on all issues of fact and argument on all issues of law and policy involved. They will also have opportunity to call, examine, and cross-examine witnesses, and to offer and introduce documentary evidence and exhibits as may be required for a full and true disclosure of the facts and disposition of the complaint.

C. The board through its administrator shall arrange for a certified court reporter/stenographer who shall be retained by the board to prepare a written transcript of the proceedings.

D. During the hearing, the presiding officer of the hearing panel shall rule upon all evidentiary objections and other procedural questions, but in his or her discretion may consult with the entire hearing panel in executive session. The independent counsel may assist the presiding officer and the hearing panel, either in open session or executive session, in ruling on evidentiary objections and other procedural issues raised during the hearing.

E. The record in an adjudication shall include the items specified in R.S. 37:2717 and R.S. 49:955. The record shall also contain the administrative complaint, the notice of hearing, the respondent's response to the complaint (if any), copies of subpoenas issued in connection with the case or the hearing of the adjudication, as well as all pleadings, motions and intermediate rulings.

F. The order of presentation in adjudication proceedings, unless the parties stipulate otherwise and the hearing panel approves, is first the presentation of evidence by the assistant attorney general, the presentation of evidence by the respondent, rebuttal by the assistant attorney general (if any). Rebuttal should be directed to issues raised by the evidence and defenses presented by respondent's case. Should the hearing panel determine, in the interest of fairness, that respondent be provided a limited opportunity to present additional evidence following rebuttal, the panel may so order.

G. Hearing panel members may direct questions to any witness at any time during the hearing process. Should questions posed by the hearing panel members suggest the need for additional direct examination, cross-examination or redirect examination by either party, the hearing panel will allow such additional examination as it deems appropriate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:313 (February 2000).

§735. Evidence; Burden of Proof

A. In an adjudication hearing, the board or the designated board hearing panel may give probative effect to evidence which possesses probative value commonly accepted by reasonably prudent people in the conduct of their affairs. To the extent applicable or not subject to exception, effect will be given to the rules of privilege recognized by law. The panel may exclude incompetent, irrelevant, immaterial, and unduly repetitious evidence. Objections to evidentiary offers may be made and shall be noted in the record. Subject to these requirements, when a hearing will be expedited and the interest of the parties will not be prejudiced, any part of the evidence may be received in written form.

B. Any records and documents in the board's possession which either party desires the board to consider may be offered and made a part of the record. Such materials may be received into the record in the form of copies or excerpts and shall be available for the respondent's legal counsel to examine before being received into evidence.

C. To the extent not prohibited by law, the hearing panel will honor and receive written stipulations arrived at between the parties as a proven fact at the hearing. The hearing panel, as appropriate, will also accept verbal stipulations arrived at between the parties during the hearing as proven fact, provided both parties and/or their respective legal counsel acknowledge the factual content of the stipulation on the record. The hearing panel may use stipulations as well as other evidence in arriving at any decision.

D. The hearing panel may take notice of judicially cognizable facts and of generally recognized technical or scientific facts within the hearing panel's social work or clinical social work knowledge. The parties shall be notified either before or during the hearing of any material noticed or sought by any party to be noticed. All parties will be afforded an opportunity to contest any materials so noticed. The hearing panel may draw upon its knowledge of social work, social work methodology, and clinical social work methods in evaluating any evidence presented.

E. The presiding officer at the hearing shall have the power to administer oaths or affirmations to all witnesses appearing to give testimony. The presiding officer shall regulate the course of the hearing, set the time and place of continued hearings, fix the time for the filing of briefs and other documents (if any are required or requested), and may direct the parties to appear and confer to consider simplifying issues.

F. In adjudication hearings before the board or any board hearing panel, the Louisiana Code of Evidence may be used as a reference by the panel for admissibility of evidence and other evidentiary issues. The provisions of the Code of Evidence relating to hearsay are not strictly applicable to adjudication hearings.

G. At an adjudication hearing, the burden of proof rests with the attorney general or the assistant presenting the evidence before the hearing panel. No sanction shall be imposed or order issued except upon consideration of the entire record as supported by and in accordance with reliable, probative and substantial evidence. The burden of proof related to any issue is a preponderance of evidence.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:314 (February 2000).

§737. Decisions; Notice

A. Following the presentation of evidence and any arguments, submission of briefs or written memorandum (if requested by the hearing panel), the hearing panel shall deliberate and reach its findings of fact and conclusions of

law as soon as practicable after the hearing concludes. The hearing panel shall render its decision in writing within 60 days of the last hearing date, unless the hearing panel extends time for submission of any post-hearing briefs, memoranda or suggested findings of fact and conclusions of law.

B. The hearing panel's findings of fact and conclusions of law, including any sanction if applicable, shall be signed by the presiding officer of the hearing panel on behalf of and in the name of the board. In any decision in which the hearing panel's decision was not unanimous, those hearing panel members deciding with the majority shall also sign the decision. Any panel member disagreeing with the findings of fact and conclusions of law or sanction should note his/her dissent on the decision and may record thereon any reasons for his/her dissent.

C. A certified copy of the final decision shall be served promptly upon respondent's counsel of record, or on respondent personally in the absence of counsel, and on the assistant attorney general in the same manner of service prescribed for the service of complaints.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:314 (February 2000).

§739. Rehearings

A. A decision by the board or a board hearing panel in the case of adjudication shall be subject to rehearing, reopening, or reconsideration by the board as provided for in R.S. 49:959, provided the board receives such a request at its office within 10 days of the entry of the board's final decision. If the board receives such a written request by mail after 10 days of the entry of its final decision, the request will be considered timely if the request is post-marked within the 10-day-period.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:314 (February 2000).

§741. Miscellaneous Rules

A. Social workers have a continuing obligation to keep the board informed about their current addresses. Accordingly, if notice of an investigation, service of an administrative complaint, or notice of a hearing cannot be delivered by mail or by personal delivery, the board shall make reasonable efforts to contact the social worker and obtain the social worker's new address. If, after the board makes reasonable efforts to locate the social worker, notice or service cannot be made because the social worker cannot be located, then the board or any designated hearing panel is authorized to proceed with the investigation, complaint procedure, and adjudication of the complaint, notwithstanding the social worker's absence, lack of participation in the process, or failure to appear.

B. If the social worker receives due notice of an adjudication hearing and fails to appear and participate, and does not notify the board of good cause for the social worker's absence, the board and its designated hearing panel may proceed with the adjudication notwithstanding the social worker's absence.

C. If a social worker is unable to attend an adjudication hearing because the social worker is incarcerated as the result of the conviction of any criminal conduct recognized as a felony under either state or federal law, or is under federal detention subject to a removal or deportation order, the board and its designated hearing panel may proceed with the adjudication hearing after providing the incarcerated or detained social worker reasonable opportunity to participate in the hearing. That participation may be through legal counsel authorized to practice in this state, participation by telephone at the social worker's expense, and the opportunity to present evidence through deposition, affidavit, or such other reasonable means as the board and/or the hearing panel deems fair and appropriate.

D. Social workers who are subject to an investigation and/or are named as a respondent in an administrative complaint filed with the board are entitled to defend themselves with or without the benefit of legal counsel. If a social worker chooses not to defend and instead surrenders his/her license, certificate, provisional certificate, or registration at any time during an investigation, complaint or adjudication hearing, but prior to the hearing panel's decision thereon, the board will deem such surrender as an attempt to avoid the disciplinary process. The board will then subject the involved social worker to the revocation of the license, certificate, provisional certificate, or registration, or impose other sanction or disposition which the board deems appropriate, based on the information available to the board. Such board action may also impose restrictions on any subsequent application to the board which the involved social worker may make. Such restrictions may include restricting the social worker from making subsequent application for as much as five years following the surrender or resignation by the social worker. The board is also authorized to report in its newsletter a summary of the circumstances surrounding the social worker's surrender or resignation of license, certificate, or registration while under investigation or subject to an administrative complaint.

E. The board shall have authority to delegate to the CIO or the board administrator the investigation of any alleged violations of R.S. 37:2720 or prior to bringing any injunctive proceedings under R.S. 37:2721. Following the board's review of any investigation conducted thereon, the board shall contact the appropriate district attorney or bring injunctive proceedings through the attorney general, or both. Final authority for appropriate action rests solely with the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:315 (February 2000).

§743. Compliance Hearing

A. Any applicant whose application is rejected may seek a compliance hearing as provided for in R.S. 37:2710, provided that the request for such compliance hearing is submitted to the board in writing within 30 days after the applicant receives notice of rejection. In the request for a compliance hearing, the applicant shall state the specific reasons for the opposition to the rejected application.

B. After receiving a request for a compliance hearing, the board's administrator shall contact the board chairperson, who will designate three board members to sit on a hearing panel for the compliance hearing. The purpose of the compliance hearing is to provide a forum for the applicant or licensee to present documentary evidence through affidavits, court records, official records, letters, etc., along with under-oath testimony to establish that the applicant in fact meets the lawful requirements for the application or for the retention or renewal of the license, certificate, provisional certificate, or registration. The hearing panel shall elect from its membership one board member to serve as the presiding officer. The presiding officer shall administer oaths, maintain order at the hearing, fix new hearing dates as required, and rule on other matters relating to the hearing. A record of the hearing will be maintained by the board's administrator, although a court reporter or stenographer is not required. The applicant may be represented by counsel or may represent himself/herself. If the applicant requests a court reporter, a court reporter may be provided at the applicant's expense.

C. In any compliance hearing, the burden shall be on the applicant to establish that he or she meets the criteria for the application renewal or retention of license or that the renewal was timely.

D. An applicant whose license, certificate, provisional certificate, or registration is deemed lapsed under R.S. 37:2714 may request a compliance hearing provided the applicant requests the hearing in writing within 10 days after receiving the notice of the lapsed license, certificate, provisional certificate, or registration. In the event that the applicant did not receive such notice, then the applicant must request a compliance hearing within 30 days of the date upon which the license, certificate, provisional certificate, or registration would have lapsed by operation of law.

E. Whenever possible, the compliance hearing shall be conducted within 30 days after the board receives the request for the compliance hearing. In the event that the board is unable to schedule a compliance hearing within 30 days of the request, the board may schedule the hearing at its next regularly scheduled board meeting.

F. At the compliance hearing, the hearing panel may consult with its general counsel (independent counsel) on any legal issues emerging from the evidence submitted. Within 15 days after the compliance hearing concludes, the hearing panel will render its final decision, including findings of fact and conclusions of law. The decision will be delivered by registered mail, return receipt requested, to the

applicant requesting the compliance hearing. In the event that the hearing panel's decision is adverse to the applicant, the applicant may apply for rehearing before the entire board by submitting a written request within ten days as provided in R.S. 49:959, subject to further judicial review pursuant to R.S. 49:964, 965. Any rehearing before the board will be conducted on the record made before the hearing panel, including the hearing panel's findings of fact, conclusions of law, and recommendations. To the extent practicable, the rehearing will be held at the next regularly scheduled board meeting. The board will review the findings of fact and conclusions of law of the hearing panel and the evidence and exhibits as submitted, as well as any written submissions or assignments of error. Unless requested by the board, oral presentations or arguments will not be permitted on rehearing. The board will render its decision on rehearing within 30 days of its hearing the matter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:315 (February 2000).

§745. Declaratory Ruling

A. Any person or entity deemed to be governed by or under the jurisdiction of R.S. 37:2701-2723 may apply to the board for a declaratory order or ruling in order to determine the applicability of any of the above statutory provisions or any of the Rules of this board. The board shall issue the declaratory order or ruling in connection with the request by majority vote of the board, signed and mailed to the requesting party within 30 days of the request. However, the board may seek legal counsel or an attorney general's opinion in connection with the request for such a declaratory ruling, in which case the board's decision on that ruling or order may be issued within 60 days of the request. Any judicial review of the validity or applicability of any of these Rules shall be in conformity with R.S. 49:963.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:316 (February 2000).

Chapter 9. Procedural Rules**§901. Authority**

A. Consistent with the legislative purpose specified in R.S. 37:2701 through 2723, and to protect the safety and welfare of the people of this state against unauthorized, unqualified and improper practice of social work, the following Rules, standards, and procedures are established under the board's rule making authority of R.S. 37:2705(C), 37:2717(C)(E) and R.S. 49:952.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 29:2390 (November 2003).

§903. Complaint Origination

A. The board is authorized to receive from any person a complaint or complaints against social workers licensed, certified, provisionally certified, or registered under R.S. 2701 et seq., (hereinafter referred to as *social workers*), as well as complaints against any level of social work applicant. Throughout these Rules, the term *license* or *licensed* includes the term *certification*, *provisional certification*, and *registration* and also applies to any social workers who are certified, provisionally certified, or registered. The board is also authorized to initiate such complaint(s) when the board otherwise possesses or obtains information which satisfies the board that such a complaint is warranted.

B. Any complaint bearing on a social worker's professional competence, conviction of a crime, unauthorized practice, the assisting of unauthorized practice, mental competence, neglect of practice, or violation of the Social Work Practice Act (including these Rules and standards), or for any of the causes specified for disciplinary action in R.S. 37:2717 shall be submitted to the board in a timely manner and in writing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 29:2390 (November 2003).

§905. Investigation Procedures

A. When the board receives a written complaint, report, or other information which, if established as being true, would constitute just cause under the law for revocation, suspension, denial of license, or any other form of discipline specified in R.S. 37:2717(B), the board may refer the complaint, report or information to the board administrator and/or to the board's designated complaint investigation officer (hereinafter referred to as the CIO). The CIO may be an employee of the board or provide investigation services under contract with the board. The board's administrator and staff and/or the CIO shall conduct such investigation or inquiry as the board deems appropriate to determine whether there is probable cause to initiate formal administrative proceedings against the involved social worker. To assist in the investigation, the board is authorized to issue, as necessary or upon request, such investigative subpoenas as may be required to obtain documents, the appearance of witnesses, or sworn statements or testimony.

B. Except for the notice required by §711.B and §737.C, all other notices, correspondence or written communication relating to complaints, investigations, notices of investigations, conferences, decisions, orders, etc., may be served on or delivered to the involved social worker, complainant(s), or witnesses by regular mail or, when deemed appropriate or necessary by the board or its administrator, by personal delivery (service) or other available means. Notices shall be delivered with the designation "personal and confidential" clearly marked on the outside of the envelope.

C. Under normal circumstances, the involved social worker will receive prompt written notice from the board's administrator of the initiation or pendency of an investigation. The notice shall contain sufficient detail of the nature and the basis of the complaint or other information giving rise to the investigation, as well as a preliminary statement of the possible violations involved. The notice shall also provide the social worker with an opportunity to respond in writing to the complaint or to provide other information relating to the investigation. When such notice, in the judgment of the CIO and/or the board's administrator, is likely to prejudice the investigation, the notice may be delayed. Any delay in the notice to the involved social worker beyond the first 20 days of the investigation will require the board's administrator to obtain board approval for any additional delay.

D. Board members as members assigned by the agency to make findings of fact and conclusions of law will not and may not participate in the investigation. No board member shall accept contact or communicate with a social worker involved in an investigation, any person on behalf of the social worker, legal counsel for any party, the complainant, witness, or potential witness. If any of these persons attempt to contact a board member, the board member shall promptly refer the matter to the board's administrator and/or the board's legal counsel. This restriction conforms with R.S. 49:960(A) and is not intended to restrict those routine communications which are in no way related to a case under active investigation or adjudication.

E. The investigation and recommended action or report should be completed within 60 days following the date of the board's written referral for investigation. If the board's administrator and/or CIO shows good cause, the board may extend the time for investigation for a reasonable time not to exceed an additional 60-day period.

F. The board will not authorize a delay in notice to the involved social worker or an extension of time for concluding an investigation if this action would be inconsistent with the limitations set out in R.S. 37:21. The board shall schedule hearings and provide notice of hearings consistent with those statutory limitations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 29:2391 (November 2003).

§907. Disposition of Investigation

A. The board may, before, during, or following an investigation, or after the filing of an administrative complaint, dispose of any complaint informally through correspondence or conference with the social worker and/or the complainant. This action may occur whether requested by the involved social worker or recommended by the CIO, or at any time as deemed appropriate by the board. Such informal resolution may take the form of any informal disposition recognized in R.S. 49:955(D) or any other form of agreement which adequately addresses the complaint or the matter under investigation. Such agreement is binding

upon the involved social worker and the board. When an informal disposition occurs after an administrative complaint is filed with the board, the agreement requires the concurrence of the assistant attorney general handling the case. This concurrence further requires a certification by the assistant attorney general that the social worker's conduct as specified in the informal disposition documents is consistent with the known evidence which could be presented at an adjudication hearing.

B. Any attempt by the board to resolve a complaint by informal disposition which does not result in a disposition of the complaint or matter under investigation, will in no way preclude further investigation of that matter or complaint. The participation in any such attempt by the board or any of its members will in no way disqualify the board or any of its members from serving on an adjudication hearing panel dealing with an administrative complaint on the same subject matter as the attempted informal resolution. The board and the hearing panel is authorized to obtain waivers related to their participation in informal disposition procedures signed by the involved social worker and the social worker's legal counsel, if any, prior to its participation in such informal procedures.

C. At the conclusion of the investigation, the board's administrator will receive a written report from the CIO and/or the board's administrative staff. The written report shall provide a summary of the complaint or basis for the investigation, a general statement of the evidence relating to the investigation and the investigator's determination and recommendation. If the report contains a recommendation that the complaint be dismissed due to a lack of evidence, inadequate legal cause for the filing of an administrative complaint, or for any other reason, the administrator promptly shall notify the board chairperson who will, on a rotating basis, designate a board member to review the complaint, the complete investigative materials of the CIO or the board's administrative staff, and any investigative reports and recommendations. This review shall include an assessment of the quality and thoroughness of the investigation and the legal and/or factual basis for the recommended dismissal. The reviewing board member shall promptly report to the board his or her assessment of the investigation and the basis for the recommended dismissal. Unless the complaint is the subject of an informal disposition as specified in §907.A, no complaint may be dismissed without board member review of the investigation and a vote of the board on the recommendation of the investigator's report. The board may accept the recommendation of the report and dismiss the complaint or may refer the matter back to the board's administrator for further investigation as it deems necessary. In the event the board votes to dismiss the complaint, both the involved social worker and the complainant will be notified in writing concerning the board's action. Notwithstanding this Section, no board member will be disqualified from serving on a hearing panel on a complaint merely because the board member was designated to review the complaint or participated in a vote related to the recommendation of the dismissal of any complaint.

D. If the investigation report contains a determination that there is probable cause to believe that the involved social worker has engaged or is engaging in conduct, acts, or omissions constituting legal cause under the law, these Rules and regulations, or ethical standards for any form of disciplinary action as specified in R.S. 37:2717, then the administrator shall promptly notify the attorney general or the assistant attorney general assigned to prosecute such matters on behalf of the state pursuant to R.S. 37:2717(C). The notice shall deliver to the assistant attorney general all investigative reports, statements, notes, recordings, court records, and other data obtained in the course of the investigation. It will also request the preparation of a draft of an administrative complaint regarding any violations which are disclosed in or suggested by the investigation. The assistant attorney general prosecuting the matter may request and obtain other information from the board's administrator, including access to consultants to assess the results of the investigation and prepare a draft of the administrative complaint. The draft of the administrative complaint shall identify the involved social worker and be prepared in the same form and content as the administrative complaint specified in §709.B of these Rules. The draft of the administrative complaint shall be signed by the assistant attorney general and delivered to the board's administrator within 30 days of the notice and delivery to the assistant attorney general of the investigation, report and specified materials. The board's administrator is authorized to extend the time for the submission of the draft of the administrative complaint for a reasonable time as requested by the assistant attorney general, provided that such extensions do not foreclose action on the complaint or the scheduling of a hearing due to the limitations contained in R.S. 37:21.

E. Upon receiving a signed draft of the administrative complaint, the administrator shall mail a copy of the draft complaint together with a notice letter to the involved social worker. The letter will advise of the intent to file the administrative complaint and give the social worker a reasonable opportunity pursuant to R.S. 49:961(C) to show compliance with all legal requirements of the social worker's license, or to show that the complaint is unfounded.

F. Should the involved social worker fail to respond within the time provided (which time may be extended by the administrator upon good cause shown), or if the social worker's response does not satisfactorily demonstrate that the social worker is in lawful compliance or that the complaint is unfounded; the administrator shall in consultation with the assistant attorney general prepare an original complaint in the form of the draft complaint for filing with the board. In determining the adequacy of any response submitted by the social worker, the administrator should consult with the assistant attorney general. The administrator may also consult with its general legal counsel (also referred to in these procedural Rules as independent counsel) on any legal issues relating to the response submitted by the social worker.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 29:2391 (November 2003).

§909. Administrative Complaint Procedure

A. An original of the administrative complaint shall be signed and approved by the assistant attorney general and delivered to the board's administrator prior to being filed with the board. The board's administrator shall place the administrative complaint on the board agenda for the next scheduled meeting of the board. When the board receives the administrative complaint, the board will docket the complaint under its designated numbering system and schedule a hearing.

B. The administrative complaint shall identify the involved social worker and any license, provisional license, certificate or registration number. In separately numbered paragraphs, the complaint shall concisely state the material facts and the matters alleged to be proven, including the facts giving rise to the board's jurisdiction over the respondent social worker, the facts constituting legal cause for the complaint against the respondent under law (including the specification of the Practice Act, the Administrative Procedures Act, the Board's Rules, Standards, and Procedures, or any other statutory law alleged to have been violated by the respondent social worker). The complaint shall request an administrative sanction or relief which the assistant attorney general seeks in the name of the State of Louisiana. It shall bear the name, address and telephone number of the assistant attorney general.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 29:2392 (November 2003).

§911. Notice of Administrative Complaint and Hearing Scheduling

A. Upon the docketing of the administrative complaint, the board should schedule the complaint for a hearing before a hearing panel of the board. This hearing shall take place not less than 30 days nor more than 150 days of the docketing of the complaint, provided that the time for the hearing may be lengthened as the board deems necessary or appropriate, or upon good cause shown by motion of the attorney general or respondent. Any requests for extension of time to schedule the hearing beyond 150 days after docketing shall be considered the filing of a procedural motion under R.S. 37:21(A)(5).

B. If the board finds that public health, safety, or welfare imperatively requires emergency action and incorporates a finding to that effect in its order, the board may enter an order of summary suspension of the respondent social worker's license pending proceedings for revocation or other action in accordance with R.S. 49:961(C). In that event, the scheduled hearing on the summary suspension shall be noticed and scheduled not more than 45 days after the order of such summary suspension. Scheduling may extend beyond the 45 day period if requested by the involved social worker.

C. The respondent social worker will be served written notice of the administrative complaint; the time, date, and place of the scheduled hearing; and a copy of the Board's Rules, Standards, and Procedures by registered, return-receipt-requested mail, as well as by regular first class mail. The notice will be sent to the most current address for the respondent social worker as reflected in the official records of the board. The notice shall include a statement of the legal authority and jurisdiction under which the hearing is to be held and shall be accompanied by a certified copy of the administrative complaint. If the hearing panel of the board has been designated at the time of the notice, the notice shall contain the names of the panel members.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 29:2393 (November 2003).

§913. Response to Complaint, Notice of Representation

A. Within 15 days of service of the complaint (or such longer time as the board may permit, on motion of the respondent social worker, hereafter called *respondent*), the respondent may answer the complaint, admitting or denying each of the separate allegations of fact or law. The respondent may offer any explanation or assert whatever defense(s) are applicable. Any matters admitted by respondent shall be deemed proven and established for purposes of adjudication. In the event that respondent does not file a response to the complaint, all matters asserted in the complaint shall be deemed denied.

B. In any adjudication proceeding before the board, respondent may be represented by an attorney at law duly admitted to practice in this state. Respondent who is represented by legal counsel shall personally or through such counsel give written notice to the board of the name, address and telephone number of the attorney. Following the board's receipt of proper notice of representation, all further notices, complaints, subpoenas, orders, or other process related to the proceedings shall be served on respondent through his or her designated counsel of record.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 29:2393 (November 2003).

§915. Pleadings, Motions; Service

A. All pleadings, motions, and other papers permitted or required to be filed with the board in a pending adjudication shall be filed by personal delivery at or by mail to the board office. Concurrent service by mail or personal delivery shall be filed with the assistant attorney general, if filed by or on behalf of the respondent, or upon respondent or respondent's counsel of record (if any), if filed by the assistant attorney general.

B. All pleadings, motions, discovery, or other papers shall be submitted on plain white letter-size (8 1/2" x 11") bond, with margins of at least 1" on all sides. The text shall

be double-spaced, except for quotations and other matter customarily single-spaced. Submitted materials shall bear the caption and docket number of the case as it appears on the complaint, and shall include a certificate of the attorney or person making the filing that service of a copy of the materials has been effected in the same manner by regular mail or by personal delivery.

C. The board may refuse to accept for filing any pleading, motion or other paper not conforming to the requirements of this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 29:2393 (November 2003).

§917. Pre-Hearing Motions

A. Pre-hearing motions, including a motion to dismiss, shall be filed not less than 30 days following the service of the complaint on the respondent or 15 days prior to the hearing, whichever is earlier. Each pre-hearing motion shall be accompanied by a memorandum which sets forth a concise statement of the grounds upon which the relief sought is based and the legal authority therefor. A motion may be accompanied by an affidavit(s) as necessary to present or support factual content of the motion. Within 10 days of the filing of any such motion and memorandum or such shorter time as the board may order, the party opposing the motion (whether the opposing party is the assistant attorney general or the respondent or respondent's counsel), may file a memorandum which may be supported by affidavit(s) in opposition to or setting forth the opposing party's position on the motion.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 29:2393 (November 2003).

§919. Motions for Continuance of Hearing

A. A motion for continuance of hearing shall be filed within the delay prescribed by §317 of these Rules, provided that the board may accept the filing of a motion for a continuance at any time prior to hearing upon a showing of good cause not discoverable within the time otherwise provided for the filing of pre-hearing motions.

B. A scheduled hearing may be continued by the board only upon a showing by respondent or the assistant attorney general that there are substantial legitimate grounds that the hearing should be continued. These grounds must balance the respondent's right to a reasonable opportunity to prepare and present a defense, with the complaint and the board's responsibility to protect the public health, welfare, and safety. Except in extraordinary circumstances evidenced by verified motion or accompanying affidavit, the board ordinarily will not grant a motion to continue a hearing that has been previously continued upon motion of the same party. The board may, but is not required to continue a scheduled hearing, where both respondent and/or

respondent's legal counsel and the assistant attorney general jointly request continuance.

C. If an initial motion for continuance is not opposed, it may be granted by the board's administrator.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 29:2393 (November 2003).

§921. Disposition of Pre-Hearing Motions

A. Any pre-hearing motion, other than an unopposed initial motion for continuance of hearing which may be granted by the administrator, shall be referred for decision to the presiding officer of the hearing panel designated for that proceeding. The presiding officer may make a ruling or, at his or her discretion, may refer any pre-hearing motion to the entire panel for disposition. Any party aggrieved by the decision of the presiding officer on a pre-hearing motion may request that the motion be reconsidered by the entire panel.

B. The presiding officer or the hearing panel shall ordinarily rule on pre-hearing motions on the papers filed, without a hearing. On written request by the respondent or the assistant attorney general, however, and on grounds satisfactory to the presiding officer of the hearing panel, the presiding officer may grant opportunity for hearing, by oral argument, on any pre-hearing motion.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 29:2394 (November 2003).

§923. Rules of Evidence; Official Notice; Oaths and Affirmations; Subpoenas; Depositions and Discovery; Confidential Privileged Information, and Executive Session

A. Rules relating to evidence, notice, authority to administer oaths, issue subpoenas, conduct depositions and discovery, and the control of confidential and privileged information will be applied in adjudication proceedings before the board as specified in R.S. 49:956, or as may be modified by R.S. 13:3715.1(J) and R.S. 44:4(25).

B. To the extent applicable, the testimonial privileges set out in the Social Work Practice Act, R.S. 37:2718 and the Louisiana Code of Evidence will apply to the hearings before the board. By bringing a complaint against his or her social worker, the client waives the privilege of confidentiality for the purposes of the hearing.

C. The hearing panel and its designated presiding officer shall take reasonable steps to protect patient/client identity on any medical/psychotherapy records or similar records as required by R.S. 13:3715.1(J), and to the extent that any information presented at a hearing involves peer review material within the meaning of R.S. 13:3715.3. If protection of peer review material is required, the board is authorized to conduct that portion of the hearing in executive session to

preserve the confidentiality of peer review privilege materials, including information, data, reports, and records in compliance with R.S. 13:3715.3(G). The board may also go into executive session for the limited purpose of discussing the character, professional competence, or physical or mental health of a license, pursuant to R.S. 42:6 and 6.1 and Op. Atty. Gen. No. 94-561, Dec. 8, 1994.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 29:2394 (November 2003).

§925. Designation of Hearing Panel, Disqualification and Replacement

A. At the time the administrative complaint is docketed with the board or within 30 days thereafter, the board chairperson will designate five members of the board (one of whom may, but is not required to be, the board chairperson) to serve as the hearing panel for that complaint. The selected board panel members shall elect from the membership a person to serve as presiding officer. The presiding officer at the hearing may make rulings on objections and the admissibility of evidence, and will insure that the conduct of the hearing proceeds without delay and pursuant to law. The other panel members may not delegate any of their decision-making or fact-finding duties to the presiding officer, nor shall the presiding officer have any greater weight in the decision-making process.

B. In the event that a board member is disqualified or recused from a complaint or hearing, the board should immediately contact the governor to appoint a board member pro tem to replace the disqualified member for the complaint or hearing in progress only.

C. Any panel member having reason to believe that he or she is biased or prejudiced either for or against one of the parties to the proceeding, or who has a personal interest in the outcome, shall immediately notify the remaining board members and request to be disqualified. Likewise, any party to such a hearing or a compliance hearing as provided in §743, may file with the board a motion supported by an affidavit requesting disqualification because of bias, prejudice or personal interest. Motion for disqualification shall be filed with the board and the opposing party within 15 days following the notice of the composition of the hearing panel. Absent good cause shown, motions for disqualification filed more than 15 days following such notice will not be considered. As soon as possible, but not later than 10 calendar days preceding the beginning of the hearing, the majority of the hearing panel will consider the merits of the disqualification request and any opposition to that request filed by the opposing party. The concerned board member shall not participate in the action to disqualify and shall not vote on that issue. If the board hearing panel determines there is no merit to the request for disqualification, the board will proceed with the hearing before the designated panel. However, any doubt as to the

merits of the request for disqualification should be resolved in favor of disqualification, and the board chairperson shall immediately appoint one of the remaining board members as the replacement to the hearing panel.

D. Ordinarily, the composition of a hearing panel is five members of the board. However, in the event that the respondent social worker and the assistant attorney general agree to a hearing panel of three board members, the chairperson may designate three of the five designated panel members to serve as the hearing panel. Any stipulation regarding a three-board-member hearing panel must be in writing and signed by the respondent and/or respondent's attorney and the attorney general. Such stipulation further provides that the three member hearing panel may completely adjudicate all issues specified in the complaint, render findings of fact, conclusions of law, decision and sanction, and that no appeal of any decision or sanction will be based on a challenge to the board's jurisdiction to adjudicate the matter with a three member hearing panel. Any such stipulation to a three-member hearing panel shall be delivered to the board at least 15 days prior to the scheduled hearing. The written stipulation shall be filed in the adjudication record and shall constitute a waiver of the application of and the need to comply with R.S. 49:957.

E. At least one member of the hearing panel including the panel members of a compliance hearing specified under §734 shall have the same social work credential as the respondent.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 29:2394 (November 2003).

§927. Board's Independent Legal Counsel

A. The board may designate its general counsel to serve as independent counsel relating to complaints and adjudication and compliance hearings.

B. The board's independent counsel may provide the board, any hearing panel member, or the board's administrator with advice on the issues of legal sufficiency, notice, procedural and substantive due process of law (constitutional, statutory and rules), interpretations relating to any complaint, or the investigation or adjudication thereof. Such independent counsel may not participate in the investigation or prosecution of any case pending before the board or board hearing panel.

C. The board's independent counsel may also provide other services relative to the complaint or adjudication which the board or the hearing panel deems necessary, except as may be expressly limited by these Rules, standards, and procedures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 29:2395 (November 2003).

§929. Pre-Hearing Conference

A. In any case of adjudication noticed and docketed for a hearing before the board, the respondent and/or respondent's legal counsel and the assistant attorney general may agree, or the board chairperson or the presiding officer of the hearing panel may require, that a pre-hearing conference be held among such counsel or together with the board's independent legal counsel. This conference will be held for the purpose of simplifying the issues for the hearing, and promoting stipulations as to facts and proposed evidentiary offerings which will not be disputed at the hearing.

B. If the parties and/or their legal counsel reside in different cities within the state, or if for other reasons it is inconvenient for parties to appear in person at a pre-hearing conference, the conference may be conducted by telephone.

C. Following the pre-hearing conference, the parties shall (and without such conference the parties may) agree in writing on a pre-hearing order which should include:

1. a brief statement by the assistant attorney general about what such counsel expects the evidence presented against the respondent to show;
2. a brief statement by respondent as to what the evidence and arguments in defense are expected to show;
3. a list of witnesses to be called by the assistant attorney general and/or respondent, together with a brief general statement of the nature of the testimony each witness is expected to give;
4. any stipulations which the parties may be able to agree upon concerning undisputed claims, facts, testimony, documents or issues; and
5. an estimate of the time required for the hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 29:2395 (November 2003).

§931. Consolidation of Cases

A. The board shall have the discretion to consolidate one or more cases for hearing when they involve the same or related parties, or substantially the same questions of law or of fact. The board may also grant separate hearings if a joint hearing would be prejudicial to one or more of the parties. If hearings are to be consolidated, notice must be given to all parties in advance of the hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 29:2395 (November 2003).

§933. Conduct of Hearing; Record

A. Adjudication hearings are generally conducted in open session, except where closed or executive session is specifically authorized by law, as identified in these Rules.

B. At the adjudication hearing, the assistant attorney general and the respondent and respondent's counsel shall be afforded the opportunity to present evidence on all issues of fact and argument on all issues of law and policy involved. They will also have opportunity to call, examine, and cross-examine witnesses, and to offer and introduce documentary evidence and exhibits as may be required for a full and true disclosure of the facts and disposition of the complaint.

C. The board through its administrator shall arrange for a certified court reporter/stenographer who shall be retained by the board to prepare a written transcript of the proceedings.

D. During the hearing, the presiding officer of the hearing panel shall rule upon all evidentiary objections and other procedural questions, but in his or her discretion may consult with the entire hearing panel in executive session. The independent counsel may assist the presiding officer and the hearing panel, either in open session or executive session, in ruling on evidentiary objections and other procedural issues raised during the hearing.

E. The record in an adjudication shall include the items specified in R.S. 37:2717 and R.S. 49:955. The record shall also contain the administrative complaint, the notice of hearing, the respondent's response to the complaint (if any), copies of subpoenas issued in connection with the case or the hearing of the adjudication, as well as all pleadings, motions and intermediate rulings.

F. The order of presentation in adjudication proceedings, unless the parties stipulate otherwise and the hearing panel approves, is first the presentation of evidence by the assistant attorney general, the presentation of evidence by the respondent, rebuttal by the assistant attorney general (if any). Rebuttal should be directed to issues raised by the evidence and defenses presented by respondent's case. Should the hearing panel determine, in the interest of fairness, that respondent be provided a limited opportunity to present additional evidence following rebuttal, the panel may so order.

G. Hearing panel members may direct questions to any witness at any time during the hearing process. Should questions posed by the hearing panel members suggest the need for additional direct examination, cross-examination or redirect examination by either party, the hearing panel will allow such additional examination as it deems appropriate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 29:2395 (November 2003).

§935. Evidence; Burden of Proof

A. In an adjudication hearing, the board or the designated board hearing panel may give probative effect to evidence which possesses probative value commonly accepted by reasonably prudent people in the conduct of their affairs. To the extent applicable or not subject to

exception, effect will be given to the rules of privilege recognized by law. The panel may exclude incompetent, irrelevant, immaterial, and unduly repetitious evidence. Objections to evidentiary offers may be made and shall be noted in the record. Subject to these requirements, when a hearing will be expedited and the interest of the parties will not be prejudiced, any part of the evidence may be received in written form.

B. Any records and documents in the board's possession which either party desires the board to consider may be offered and made a part of the record. Such materials may be received into the record in the form of copies or excerpts and shall be available for the respondent's legal counsel to examine before being received into evidence.

C. To the extent not prohibited by law, the hearing panel will honor and receive written stipulations arrived at between the parties as a proven fact at the hearing. The hearing panel, as appropriate, will also accept verbal stipulations arrived at between the parties during the hearing as proven fact, provided both parties and/or their respective legal counsel acknowledge the factual content of the stipulation on the record. The hearing panel may use stipulations as well as other evidence in arriving at any decision.

D. The hearing panel may take notice of judicially cognizable facts and of generally recognized technical or scientific facts within the hearing panel's social work or clinical social work knowledge. The parties shall be notified either before or during the hearing of any material noticed or sought by any party to be noticed. All parties will be afforded an opportunity to contest any materials so noticed. The hearing panel may draw upon its knowledge of social work, social work methodology, and clinical social work methods in evaluating any evidence presented.

E. The presiding officer at the hearing shall have the power to administer oaths or affirmations to all witnesses appearing to give testimony. The presiding officer shall regulate the course of the hearing, set the time and place of continued hearings, fix the time for the filing of briefs and other documents (if any are required or requested), and may direct the parties to appear and confer to consider simplifying issues.

F. In adjudication hearings before the board or any board hearing panel, the Louisiana Code of Evidence may be used as a reference by the panel for admissibility of evidence and other evidentiary issues. The provisions of the Code of Evidence relating to hearsay are not strictly applicable to adjudication hearings.

G. At an adjudication hearing, the burden of proof rests with the attorney general or the assistant presenting the evidence before the hearing panel. No sanction shall be imposed or order issued except upon consideration of the entire record as supported by and in accordance with reliable, probative and substantial evidence. The burden of proof related to any issue is a preponderance of evidence.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 29:2396 (November 2003).

§937. Decisions; Notice

A. Following the presentation of evidence and any arguments, submission of briefs or written memorandum (if requested by the hearing panel), the hearing panel shall deliberate and reach its findings of fact and conclusions of law as soon as practicable after the hearing concludes. The hearing panel shall render its decision in writing within 60 days of the last hearing date, unless the hearing panel extends time for submission of any post-hearing briefs, memoranda or suggested findings of fact and conclusions of law.

B. The hearing panel's findings of fact and conclusions of law, including any sanction if applicable, shall be signed by the presiding officer of the hearing panel on behalf of and in the name of the board. In any decision in which the hearing panel's decision was not unanimous, those hearing panel members deciding with the majority shall also sign the decision. Any panel member disagreeing with the findings of fact and conclusions of law or sanction should note his/her dissent on the decision and may record thereon any reasons for his/her dissent.

C. A certified copy of the final decision shall be served promptly upon respondent's counsel of record, or on respondent personally in the absence of counsel, and on the assistant attorney general in the same manner of service prescribed for the service of complaints.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 29:2396 (November 2003).

§939. Rehearings

A. A decision by the board or a board hearing panel in the case of adjudication shall be subject to rehearing, reopening, or reconsideration by the board as provided for in R.S. 49:959, provided the board receives such a request at its office within 10 days of the entry of the board's final decision. If the board receives such a written request by mail after 10 days of the entry of its final decision, the request will be considered timely if the request is post-marked within the 10-day period.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 29:2397 (November 2003).

§941. Miscellaneous Rules

A. Social workers have a continuing obligation to keep the board informed about their current addresses. Accordingly, if notice of an investigation, service of an administrative complaint, or notice of a hearing cannot be delivered by mail or by personal delivery, the board shall

make reasonable efforts to contact the social worker and obtain the social worker's new address. If, after the board makes reasonable efforts to locate the social worker, notice or service cannot be made because the social worker cannot be located, then the board or any designated hearing panel is authorized to proceed with the investigation, complaint procedure, and adjudication of the complaint, notwithstanding the social worker's absence, lack of participation in the process, or failure to appear.

B. If the social worker receives due notice of an adjudication hearing and fails to appear and participate, and does not notify the board of good cause for the social worker's absence, the board and its designated hearing panel may proceed with the adjudication notwithstanding the social worker's absence.

C. If a social worker is unable to attend an adjudication hearing because the social worker is incarcerated as the result of the conviction of any criminal conduct recognized as a felony under either state or federal law, or is under federal detention subject to a removal or deportation order, the board and its designated hearing panel may proceed with the adjudication hearing after providing the incarcerated or detained social worker reasonable opportunity to participate in the hearing. That participation may be through legal counsel authorized to practice in this state, participation by telephone at the social worker's expense, and the opportunity to present evidence through deposition, affidavit, or such other reasonable means as the board and/or the hearing panel deems fair and appropriate.

D. Social workers who are subject to an investigation and/or are named as a respondent in an administrative complaint filed with the board are entitled to defend themselves with or without the benefit of legal counsel. If a social worker chooses not to defend and instead surrenders his/her license, certificate, provisional certificate, or registration at any time during an investigation, complaint or adjudication hearing, but prior to the hearing panel's decision thereon, the board will deem such surrender as an attempt to avoid the disciplinary process. The board will then subject the involved social worker to the revocation of the license, certificate, provisional certificate, or registration, or impose other sanction or disposition which the board deems appropriate, based on the information available to the board. Such board action may also impose restrictions on any subsequent application to the board which the involved social worker may make. Such restrictions may include restricting the social worker from making subsequent application for as much as five years following the surrender or resignation by the social worker. The board is also authorized to report in its newsletter a summary of the circumstances surrounding the social worker's surrender or resignation of license, certificate, or registration while under investigation or subject to an administrative complaint.

E. The board shall have authority to delegate to the CIO or the board administrator the investigation of any alleged violations of R.S. 37:2720 or prior to bringing any injunctive proceedings under R.S. 37:2721. Following the board's review of any investigation conducted thereon, the board

shall contact the appropriate district attorney or bring injunctive proceedings through the attorney general, or both. Final authority for appropriate action rests solely with the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 29:2397 (November 2003).

§943. Compliance Hearing

A. Any applicant whose application is rejected may seek a compliance hearing as provided for in R.S. 37:2710, provided that the request for such compliance hearing is submitted to the board in writing within 30 days after the applicant receives notice of rejection. In the request for a compliance hearing, the applicant shall state the specific reasons for the opposition to the rejected application.

B. After receiving a request for a compliance hearing, the board's administrator shall contact the board chairperson, who will designate three board members to sit on a hearing panel for the compliance hearing. The purpose of the compliance hearing is to provide a forum for the applicant or licensee to present documentary evidence through affidavits, court records, official records, letters, etc., along with under-oath testimony to establish that the applicant in fact meets the lawful requirements for the application or for the retention or renewal of the license, certificate, provisional certificate, or registration. The hearing panel shall elect from its membership one board member to serve as the presiding officer. The presiding officer shall administer oaths, maintain order at the hearing, fix new hearing dates as required, and rule on other matters relating to the hearing. A record of the hearing will be maintained by the board's administrator, although a court reporter or stenographer is not required. The applicant may be represented by counsel or may represent himself/herself. If the applicant requests a court reporter, a court reporter may be provided at the applicant's expense.

C. In any compliance hearing, the burden shall be on the applicant to establish that he or she meets the criteria for the application renewal or retention of license or that the renewal was timely.

D. An applicant whose license, certificate, provisional certificate, or registration is deemed lapsed under R.S. 37:2714 may request a compliance hearing provided the applicant requests the hearing in writing within 10 days after receiving the notice of the lapsed license, certificate, provisional certificate, or registration. In the event that the applicant did not receive such notice, then the applicant must request a compliance hearing within 30 days of the date upon which the license, certificate, provisional certificate, or registration would have lapsed by operation of law.

E. Whenever possible, the compliance hearing shall be conducted within 30 days after the board receives the request for the compliance hearing. In the event that the board is unable to schedule a compliance hearing within 30 days of the request, the board may schedule the hearing at its next regularly scheduled board meeting.

F. At the compliance hearing, the hearing panel may consult with its general counsel (independent counsel) on any legal issues emerging from the evidence submitted. Within 15 days after the compliance hearing concludes, the hearing panel will render its final decision, including findings of fact and conclusions of law. The decision will be delivered by registered mail, return receipt requested, to the applicant requesting the compliance hearing. In the event that the hearing panel's decision is adverse to the applicant, the applicant may apply for rehearing before the entire board by submitting a written request within ten days as provided in R.S. 49:959, subject to further judicial review pursuant to R.S. 49:964, 965. Any rehearing before the board will be conducted on the record made before the hearing panel, including the hearing panel's findings of fact, conclusions of law, and recommendations. To the extent practicable, the rehearing will be held at the next regularly scheduled board meeting. The board will review the findings of fact and conclusions of law of the hearing panel and the evidence and exhibits as submitted, as well as any written submissions or assignments of error. Unless requested by the board, oral presentations or arguments will not be permitted on rehearing. The board will render its decision on rehearing within 30 days of its hearing the matter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 29:2397 (November 2003).

§945. Declaratory Ruling

A. Any person or entity deemed to be governed by or under the jurisdiction of R.S. 37:2701-2723 may apply to the board for a declaratory order or ruling in order to determine the applicability of any of the above statutory provisions or any of the Rules of this board. The board shall issue the declaratory order or ruling in connection with the request by majority vote of the board, signed and mailed to the requesting party within 30 days of the request.

B. However, the board may seek legal counsel or an attorney general's opinion in connection with the request for such a declaratory ruling, in which case the board's decision on that ruling or order may be issued within 60 days of the request. Any judicial review of the validity or applicability of any of these Rules shall be in conformity with R.S. 49:963.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 29:2398 (November 2003).

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